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U. S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]
23401-23450

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings, in which decrees of condemnation were entered after default or consent; (2) criminal proceedings which were terminated with a plea of guilty or a finding of not guilty; (3) injunction proceedings in which (a) dismissals were entered following correction or on jurisdictional grounds, (b) consent decrees of permanent or temporary injunction were entered, (c) preliminary injunctions were entered, by consent or after trial, and (d) temporary restraining orders were entered; (4) contempt proceedings for violation of an injunction which were terminated by a finding of guilty after trial. Included are a number of cases adjudicated earlier than those now being recorded in current notices of judgment, but not published because complete records were not available immediately after the cases were terminated. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal, injunction, and contempt proceedings are against the *firms or individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.
GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *February 27, 1958.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23401-23450

Adulteration, Section 402 (a) (2), the article was a raw agricultural commodity and contained a pesticide chemical which is unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance or was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal or of an animal which has died otherwise than by slaughter; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (c), the article was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

BEVERAGES AND BEVERAGE MATERIALS *

23401. Canned Hi-C Orange-ade. (F. D. C. No. 29064. S. No. 82-212 K.)

QUANTITY: 630 cases, 12 cans each, at Charleston, W. Va.

SHIPPED: 2-4-50, from Dunedin, Fla., by Juice Industries, Inc.

LABEL IN PART: "Original Vitamin Hi-C Enriched Orange-ade Contents 1 Qt. 14 Fl. Oz. * * * Homogenized and Sterilized by the Mallory Method * * * One eight ounce glass of Hi-C Orange-ade contains 30 milligrams of vitamin C—the adult daily minimum requirement * * * Contents: Concentrated Orange Juice, Sugar, Dextrose, Water, Orange Emulsion, Citric Acid, Vitamin C, U. S. Certified Color."

RESULTS OF INVESTIGATION: Analysis showed that the article consisted of approximately: reconstituted orange juice 25 percent, sugar 9¼ percent, dextrose ½ percent, citric acid ⅓ percent, small amounts of orange oil emulsion and yellow coal-tar dyes, 30 milligrams of vitamin C per 8 ounces of beverage, and water (in excess of that required to reconstitute the concentrated orange juice declared on the label) 64½ percent.

*See also No. 23429.

LIBELED : 4-13-50, S. Dist. W. Va.

CHARGE : 402 (b) (4)—yellow coal-tar dyes had been mixed with the article so as to make it appear to be of better and greater value than it was; and, further, the article consisted of a mixture of reconstituted orange juice to which had been added water (in excess of that required to reconstitute the concentrated orange juice declared as an ingredient in the labeling of the article), sugar, dextrose, citric acid, and orange oil emulsion, which substances so added increased the bulk of the article and made it appear to be of better and greater value than it was; and 403 (a)—the label statement “Hi-C Vitamin Enriched” and the general design of the label (predominantly orange in color, bearing the words “Orange-ade” and a vignette depicting a glass of orange-colored liquid with a background of green leaves, resembling citrus leaves, and an orange blossom) were false and misleading in that they suggested and implied that the article was a vitamin-enriched beverage composed in whole or in large part of orange juice, whereas it was not such an enriched beverage; and the labeling was misleading also in that it failed to reveal the fact that the article contained only 25 percent of reconstituted orange juice and about 64.5 percent of water added in excess of that required to reconstitute the concentrated orange juice. (That fact was material in the light of the labeling statements and the general design of the label, which, as used on the 1-qt. 14-fl. oz. cans in which the article was packed, and displayed in retail grocery stores in juxtaposition or close placement to orange and other fruit juices packed in cans of similar size and shape, created the impression that the article was orange juice or its equivalent.)

DISPOSITION : Clinton Foods, Inc., New York, N. Y., successor to Juice Industries, Inc., claimant, filed an answer denying that the article was adulterated or misbranded as alleged. Thereafter, the claimant filed a motion for a change of venue, which the court, after hearing argument of counsel, denied on 10-6-50.

The claimant filed a notice of appeal to the United States Court of Appeals for the Fourth Circuit and a petition for a writ of mandamus. The Government filed a motion to dismiss the appeal; and the court, after consideration of briefs and arguments, handed down the following opinion on 4-2-51, dismissing the appeal and denying the claimant's petition for a writ of mandamus :

PARKER, Circuit Judge: “We have here an appeal from an order denying, on the ground of lack of power, a motion to transfer a condemnation proceeding from one federal district to another and a petition for a writ of mandamus to require the judge below to exercise the power. In April 1950 the United States instituted a condemnation proceeding under the Federal Food, Drug and Cosmetic Act (21 USC 301 et seq.) in the United States District Court for the Southern District of West Virginia against 630 cases of orangeade found within the District, on the ground that the orangeade was both misbranded and adulterated within the prohibition of the statute. Clinton Foods, Inc., intervened as owner in the condemnation proceeding and filed answer denying the charges of misbranding and adulteration. It subsequently made a motion that the case be transferred for trial to the District of Maryland; but this was denied by the District Judge on the ground that he had no power to order the transfer. Appeal was taken from this denial of the motion and, in addition, Clinton Foods has filed a petition in this court asking a writ of mandamus against the District Judge on the ground that he had power to grant the motion and should have exercised his discretion in passing upon it. The United States has moved to dismiss the appeal on the ground that the order denying the motion to transfer is not a final order within the meaning of the statute allowing appeals to this court.

“The motion to dismiss the appeal must be allowed. Appeals to this court may be taken only from final decisions (28 USC 1291), except where appeal

from interlocutory orders in injunction, receivership, admiralty and patent cases is expressly authorized by statute (28 USC 1292) ; and an order granting or refusing the transfer of a case is clearly not a final decision nor is it an interlocutory order from which appeal is expressly granted. As said by this court in *Cox v. Graves, Knight & Graves, Inc.* 4 Cir. 55 F. 2d 217: 'A final decision is one which "puts an end to the suit, deciding all the points in litigation between the parties, leaving nothing to be judicially determined, with nothing remaining to be done, but to enforce by execution what has been determined." *France & Canada S. S. Co. v. French Republic* 2 Cir. 285 F. 290, 294; *U. S. v. Bighorn Sheep Co.* 8 Cir. 276 F. 710.'

"The precise question was before us in *Jiffy Lubricator Co. v. Stewart-Warner Corp.* 177 F. 2d 360, cert. den. 338 U. S. 947, in which an appeal from an order transferring a case was dismissed, and one of the grounds of the dismissal was that the order was not final and appealable. We said in that case:

The motion to dismiss must be granted on the ground that the order transferring the case is not a final order from which an appeal lies under 28 USCA sec. 1291. As was said by the Supreme Court in *Arnold v. United States* for use of W. B. Guimarin & Co. 263 U. S. 427, at page 434, 44 S. Ct. 144, at page 147 68 L. Ed. 371: "It is well settled that a case may not be brought here by writ of error or appeal in fragments, that to be reviewable a judgment or decree must be not only final, but complete, that is, final not only as to all the parties, but as to the whole subject-matter and as to all the causes of action involved; and that if the judgment or decree be not thus final and complete, the writ of error or appeal must be dismissed for want of jurisdiction." *Hohorst v. Hamburg-American Packet Co.* 148 U. S. 262, 264, 13 St. Ct. 590, 37 L. Ed. 443; *Collins v. Miller*, 252 U. S. 364, 370, 40 S. Ct. 347, 64 L. Ed. 616; *Oneida Navigation Corporation v. W. & S. Job & Co.* 252 U. S. 521, 522, 40 S. Ct. 357, 64 L. Ed. 697; and cases therein cited. See also *Western Contracting Corp. v. National Surety Corp.* 4 Cir. 163 F. 2d 456; *Bowles v. Commercial Casualty Ins. Co.* 4 Cir. 107 F. 2d 169; *Hyman v. McLendon* 4 Cir. 102 F. 2d 189, 190; *Fields v. Mut. Benefit Life Ins. Co.* 4 Cir. 93 F. 2d 559, 561; *Lockhart v. New York Life Ins. Co.* 4 Cir. 71 F. 2d 684; *Toomey v. Toomey* 80 U. S. App. D. C. 77, 149 F. 2d 19.

The general rule is well settled that an order granting or refusing change of venue is not appealable unless expressly made so by statute. 3 C. J. p. 473; 4 C. J. S. Appeal and Error sec. 115; 2 Am. Jur. 899-900; *Shay v. Rinehart & Dennis Co.* 116 W. Va. 24 178 S. E. 272, and cases there cited. There is no federal statute expressly granting an appeal from such orders; and the federal decisions follow the general rule that they are not appealable. *Cook v. Burnley* 11 Wall. 659, 672, 20 L. Ed. 84; *Kennon v. Gilmer* 131 U. S. 22, 24, 9 S. Ct. 696, 33 L. Ed. 110.

Counsel for plaintiff rely upon decisions permitting appeals from dismissals in application of the principle of forum non conveniens; but these decisions are not in point. A dismissal in application of that or any other principle puts an end to the action and hence is final and appealable. An order transferring it to another district does not end but preserves it as against the running of the statute of limitations and for all other purposes.

"Nothing need be added to what was said in that case. It should be noted, however, that the same view has been taken in all other Circuits where the question has been raised. See *Koons et al. v. Kaiser et al.* 2 Cir. . . . F. 2d . . . (Oct. 6, 1950), cert. den. March 5, 1951, . . . S. Ct. . . ., 19 L. W. 3235; *Ford Motor Co. v. Ryan* 2 Cir. 182 F. 2d 329; *Magnetic Engineering & Mfg. Co. v. Dings Mfg. Co.* 2 Cir. 178 F. 2d 866; *Paramount Pictures v. Rodney* 3 Cir. 186 F. 2d 111, 116; *Shapiro v. Bonanza Hotel Co.* 9 Cir. 185 F. 2d 777; *Holdsworth v. United States* 1 Cir. 179 F. 2d 933. Not only is it the law, we think, that an order granting or refusing the transfer of a case is not appealable; but this clearly should be the law. To permit appeals as of right from such orders would delay the administration of justice, unnecessarily in most cases, and would open the door to the evils of fragmentary appeals.

"Appellant relies upon the decision of the Supreme Court in *Cohen v. Beneficial Industrial Loan Corp.* 337 U. S. 541, in which was sustained the right to appeal from an order denying a motion to require plaintiff in a stockholders

derivative suit to give a bond for costs; but that case is clearly not in point. 'The right there asserted was in the language of the Supreme Court "separable from and collateral to [the cause of] action".' *Shapiro v. Bonanza Hotel, supra*. 'There is absent here a "final disposition of a claimed right which is not an ingredient of the cause of action and does not require consideration with it".' *Ford Motor Co. v. Ryan, supra*. See also *Paramount Pictures v. Rodney, supra*.

"Assuming without deciding that in a proper case this court has power to issue a writ of mandamus¹ to require a District Judge to exercise the discretion vested in him by the statute authorizing the transfer of cases (See *Roche v. Evaporated Milk Ass'n* 319 U. S. 21; *Paramount Pictures v. Rodney, supra*, 3 Cir. 186 F. 2d 111; *Ford Motor Co. v. Ryan, supra*, 2 Cir. 182 F. 2d 329), we think it clear that this is not a case in which the writ should be granted, as the District Judge was clearly right in holding that he had no power to transfer the case to the District of Maryland. As the case could not have been brought in any other district than that in which the goods sought to be condemned were found, there was no authority to transfer it to another district under 28 USC 1404 (a). Subsection (b) of that section, relating to transfers to other divisions of the same district, confers no such authority. And 21 USCA 334 (a), relating to the transfer of misbranding cases does not authorize the transfer, since condemnation is asked here on account of adulteration as well as misbranding.

"28 USC 1404 (a) provides:

(a) For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.

"The condemnation proceeding against the 630 cases of orangeade could not have been brought in any district other than the Southern District of West Virginia, for it was there that the property sought to be condemned was situate. It is well settled that a proceeding in rem against specific property is local in character and must be brought where the property is subject to seizure under process of the court. *Keene v. United States* 5 Cranch 304; *The Little Ann Fed. Cas. No. 8397*; *The Octavia Fed. Cas. No. 10,422*; *United States v. Three Hundred and Ninety-six Barrels Distilled Spirits Fed. Cas. No. 16,502*; *The Idaho* 29 F. 187, 192. See also 28 USC 1395 (b). Since the suit for condemnation of the 630 cases of orangeade could not have been brought in any other district than that in which they were seized, it is clear that it may not be transferred from that district under the provisions of 28 USC 1404 (a). *United States v. 23 Gross Jars etc. Enca Cream* 86 F. Supp. 824; *United States v. 11 Cases etc. Ido-Pheno-Chon* 94 F. Supp. 925; *United States v. 91 Packages etc. Nutrilite Food Supplement* 93 F. Supp. 763. As was well said by Judge Fake in the case last cited:

There is no doubt but that the actions under consideration are civil actions, *Ex parte Collett* 337 U. S. 55, 69 S. Ct. 944, 959, 93 L. Ed. 1207, but are they such actions as might have been brought in any other districts than those in which they were brought? The answer is, no, because they were brought as actions in rem, and as such could be commenced only where the res was found at the time.

"And we think it equally clear that the case could not have been transferred to the Maryland District under 1404 (b). That section provides:

(b) Upon motion, consent or stipulation of all parties, any action, suit or proceeding of a civil nature or any motion or hearing thereof, may be transferred, in the discretion of the court, from the division in which pending to any other division in the same district. Transfer of proceedings in

¹ It is clear that mandamus is not likely to be attended by the delays and other evils incident to fragmentary appeals, since mandamus must be promptly applied for, is granted only in the discretion of the court in aid of its appellate jurisdiction and will be awarded only when the lower court has refused to exercise its jurisdiction or has abused its discretion with regard thereto. *Roche v. Evaporated Milk Ass'n*, 318 U. S. 21, 26 et seq. Appeal, on the other hand, if it lies at all, lies as a matter of right and will stay the proceedings of the lower court while it is being prosecuted.

rem brought by or on behalf of the United States may be transferred under this section without the consent of the United States where all other parties request transfer.

"It is perfectly clear, we think, that this subsection authorizes transfer only between different divisions of the same district. The history of the subsection is thus stated in the Revisor's notes: 'Subsection (b) is based upon section 163 of title 28, USC, 1940 ed., which applied only to the district of Maine. This revised subsection extends to all judicial districts and permits transfer of cases between divisions.' These notes have been said by the Supreme Court to be 'obviously authoritative' (*United States v. Nat. City Lines* 337 U. S. 78, 81); and they make perfectly clear, what should be reasonably clear when reason is applied to the language of the statute itself, that the effect of the subsection is to authorize the transfer of in rem actions between divisions of the district, not to any other district of the country. This is the holding in all three of the district court decisions last cited.

"Nothing in 21 USC 334 (a)² authorizes the transfer asked. That section requires condemnation proceedings under the Food, Drug and Cosmetic Act for adulteration or misbranding to be brought within the district where the article is found. The proviso, which applies only to libels on account of misbranding, authorizes the limitation to a single proceeding of the proceedings which may be brought for misbranding and the removal for trial of such proceeding. It is significant that the proviso makes no such provision where condemnation is sought on the ground of adulteration, which is ordinarily more serious than misbranding and is more often the basis of a forfeiture of the property. There is no authority in the district court to remove a case under this proviso, as distinguished from consolidating a multiplicity of cases under sec. 334 (b), where adulteration is charged. *United States v. 74 cases etc. of Oysters* 55 F. Supp. 745. And the rule is not different because adulteration along with misbranding is charged in a single libel. *United States v. 11 Cases etc. Ido-Pheno-Chon* 94 F. Supp. 925.

"For the reasons stated, the appeal will be dismissed and the petition for writ of mandamus will be denied."

The claimant filed a petition in the Supreme Court of the United States for a writ of certiorari, which was denied on 10-8-51. Subsequently, it was found that the product had become unfit for human consumption or other use because of disintegration and corrosion of the interior of the cans, resulting from storage of the product for a period beyond its normal shelf life.

On 2-13-53, upon the joint motion of the parties, the court entered an order providing for the destruction of the product, with the understanding that

² That section is as follows:

"Any article of food, drug, device, or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce or while held for sale (whether or not the first sale) after shipment in interstate commerce, or which may not, under the provisions of section 344 or 355, be introduced into interstate commerce, shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: Provided, however, that no libel for condemnation shall be instituted under this chapter, for any alleged misbranding if there is pending in any court a libel for condemnation proceeding under this chapter based upon the same alleged misbranding, and not more than one such proceeding shall be instituted if no such proceeding is so pending, except that such limitations shall not apply (1) when such misbranding has been the basis of a prior judgment in favor of the United States, in a criminal injunction, or libel for condemnation proceeding under this chapter, or (2) when the Administrator has probable cause to believe from facts found, without hearing, by him or any officer or employee of the Agency that the misbranded article is dangerous to health, or that the labeling of the misbranded article is fraudulent, or would be in a material respect misleading to the injury or damage of the purchaser or consumer. In any case where the number of libel for condemnation proceedings is limited as above provided the proceeding pending or instituted shall, on application of the claimant, reasonably made, be removed for trial to any district agreed upon by stipulation between the parties, or, in case of failure to so stipulate within a reasonable time, the claimant may apply to the court of the district in which the seizure has been made, and such court (after giving the United States Attorney for such district reasonable notice and opportunity to be heard) shall by order, unless good cause to the contrary is shown, specify a district of reasonable proximity to the claimant's principal place of business, to which the case shall be removed for trial."

the court had neither passed upon the allegations of the libel nor upon the contentions of the claimant with respect thereto, and that the order was without prejudice to these allegations and contentions.

23402. Canned boysenberry Nectarade. (F. D. C. No. 39268. S. No. 16-396 M.)

QUANTITY: 29 cases, 24 12-oz. cans each, at Seattle, Wash.

SHIPPED: 1-2-52, from Salem, Oreg.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 6-13-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 8-13-56. Default—destruction.

23403. Green coffee. (F. D. C. No. 38758. S. No. 11-510 M.)

QUANTITY: 41 bags at New Orleans, La.

SHIPPED: 10-6-55, from Vera Cruz, Mexico, by Casa Zardin S. A.

LABEL IN PART: (Bag) "Cafe Casa Zardin S. A. 16 de Septiembre No. 28 70 Kilos Product of Mexico."

LIBELED: 11-15-55, E. Dist. La.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, benzene hexachloride, which is unsafe within the meaning of the law since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on coffee has been prescribed by regulations.

DISPOSITION: 1-4-56. Consent—claimed by Hamburg American Line. 5,099 lbs. of coffee of the 6,232 lbs. actually seized was released as fit for food use after reconditioning by a burnishing and roasting operation.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23404. Bakery products. (Inj. No. 212.)

COMPLAINT FOR INJUNCTION FILED: Between 5-18-49 and 7-1-49, E. Dist. Tenn., against the Chattanooga Bakery, Inc., Chattanooga, Tenn., and David A. Parks, president of the corporation.

CHARGE: The complaint alleged that the defendants, since about the year 1939, had been engaged in the manufacture of crackers and cookies and, since about the year 1945, had been introducing into interstate commerce such articles, which were adulterated as follows:

402 (a) (3)—the articles contained insect fragments, insect setae, adult insects, rodent hair fragments, hairs resembling rodent hairs, fly setae, rodent excreta pellets, and other filth; and 402 (a) (4)—the articles had been prepared and held under insanitary conditions at the defendants' Chattanooga plant.

DISPOSITION: The defendants filed an answer to the complaint on 7-1-49, denying that the products were adulterated. The matter came on for hearing on the motion for a preliminary injunction; and, on 11-10-49, the court handed down the following opinion:

DARR, *District Judge*: "This matter is submitted on a motion for a preliminary injunction.

"The action is brought by the United States under section 302 (a) of the Federal Food, Drug and Cosmetic Act (21 U. S. C. sec 332 (a)), claiming that the defendants introduced or delivered for introduction in interstate commerce food products that were adulterated.

"Inspections over a period of three or four years are claimed wherein improper conditions were pointed out to the defendants from time to time and that while some improvement has been made as a result of said complaints, the conditions have not been completely rectified.

"In 1948 an action was brought in the United States District Court against the corporate defendant on account of the breaches of the Act, to which action a plea of nolo contendere was made and a fine of \$800.00 imposed.

"Affidavits filed by the Government Inspectors outline in great detail the insanitary conditions found in the defendants' plant.

"The latest inspection of the Government Inspectors appears to have been made on July 29, 1949, as a result of which the Acting Chief, Cincinnati District, Food and Drug Administration, submits an affidavit outlining numerous insanitary conditions and numerous filthy substances which were found in the manufactured products as well as in the raw materials found on the premises.

"The Inspector says, 'That based upon his experience and training, this bakery is, in his opinion, infested with mice and roaches and that there existed on July 29, 1949, a reasonable possibility that bakery products produced by the Chattanooga Bakery, Inc. in this plant might become contaminated with rodent and insect filth.'

"The Government Inspectors indicate that the defendants have shown a cooperative attitude, have made many improvements in the sanitary conditions, and have in many ways fully complied with the suggestions or requests made by the Inspectors.

"The defendants have answered, denying the existence of the insanitary conditions and denying the existence of filthy substances in the raw materials and manufactured products. It is denied that their activities are violative of the Act. It is admitted that a plea of nolo contendere was entered by the corporate defendant and a fine imposed on account of conditions claimed to have been found by an Inspector more than a year and a half previous to the present action. Since that time it is claimed that conditions have been remedied and that every precaution is being taken to make the premises sanitary and to permit operations in compliance with the Food, Drug and Cosmetic Act.

"The defendants submit affidavits from Inspectors of the Chattanooga-Hamilton County Health Department and from the Tennessee Department of Public Health, who have been requested from time to time to make inspections of defendants' plant and operations. The Inspectors representing the Tennessee Department of Public Health are on loan from the United States Public Health Service.

"The Inspectors representing the Tennessee Department of Health and the Chattanooga-Hamilton County Health Department affirm that insanitary conditions and improper operating conditions observed by them from time to time have been fully rectified by the defendants, and as of July 1, 1949, two Inspectors report that the condition of the plant and the operating materials were found to be in satisfactory condition. These Inspectors have had wide experience in public health operations and undertake to judge defendants' plant in accordance with the detailed specifications and standards of the United States Public Health Service.

"There can be little doubt from the substance of the affidavits, both those submitted by the Government and those by the defendants, that the defendants have been cooperative since the Government inspections began in 1945, and that large sums of money have been expended in obtaining improved machinery, in making new installations in the building, and providing safeguards and precautions against infestation, which has resulted to a large extent in remedying the conditions that occasioned the initial complaints.

"It may be said that the Government Inspectors have been very considerate and have given the defendants opportunity to correct conditions which they considered insanitary and improper; and the defendants have recognized the

merit of the Inspectors' requirements by undertaking, from time to time, to comply therewith and make proper adjustments and corrections.

"The question for immediate consideration is whether the Court should grant a preliminary injunction in advance of hearing the full facts on a trial of the case. The injunction sought is only for a compliance with the Act. Normally there would be no hardship in requiring such compliance. Persons are expected to comply with the law. But, in view of the conflicting opinions of the Inspectors, whose affidavits are before the Court, it would seem difficult to determine, in advance and without hearing the full facts, whether the defendants are in compliance with the Act.

"That certain minor violations would not justify injunction proceedings appears to be contemplated by section 306 of the Act (21 U. S. C. sec. 336). What tolerance may be granted is not clear and appears to be discretionary. What might amount to a practical compliance with the Act would depend upon the circumstances and facts as developed on the hearing of the case.

"The Court is of the opinion that the defendants desire to comply and have used their best efforts in that direction. Representatives of the State Department of Health and the Chattanooga-Hamilton County Department of Health, on loan from the United States Public Health Service, assert that, according to the requirements and standards of the United States Public Health Service, the defendants' plant is in satisfactory condition. The Government Inspectors under the Food, Drug and Cosmetic Act feel differently.

"On motion for temporary injunction, in absence of opportunity to cross-examine witnesses, the conflicting affidavits of each side were entitled to equal weight. *Warner Bros. Pictures, Inc. v. Gittone*, 110 F. 2d 292 (CCA 3).

"The grant or denial of a preliminary injunction is largely within the discretion of the judge hearing the motion. *Federal Broadcasting Co. v. American Broadcasting Co.*, 167 F. 2d 349 (CCA 2).

"The granting of a preliminary injunction should be used with caution and only where there is a clear necessity. *The Hecht Co. v. Bowles*, 321 U. S. 321; *Sun Valley Mfg. Co. v. Sun Valley Togs*, 39 F. Supp. 502 (D. C. N. Y. S. D.).

"To justify granting of preliminary injunction, there must be a showing of irreparable injury during the pendency of the action. *Murray Hill Restaurant Inc. v. Thirteen Twenty-One Locust, Inc.*, 98 F. 2d 578 (CCA 3).

"It is a rule, subject to few exceptions, that a preliminary injunction should not be awarded on ex parte affidavits, unless in a clear case. *Lane v. Harper & Bros.*, 86 F. 481 (CCA 3) cited in *Murray Hill Restaurant v. Thirteen Twenty-One Locust*, *supra*.

"The granting of an injunction is discretionary and not mandatory in the case of clear violations of the law, even in cases involving the public interest brought under statutory authority. *The Hecht Co. v. Bowles*, *supra*. While it might be more imperative to issue an injunction in public interest where the statute directs, yet the equities are somewhat the same as in ordinary injunction actions, as is recognized in the case last cited.

"This is not a case of where the defendant is reluctant to comply and will resume breaches of the law as soon as pressure from the Court is relieved, as in *Securities & Exchange Com. v. Okin*, 139 F. 2d 87 (CCA 2).

"Injunction will not be granted to punish past violations of the law, but its function should be to stop existing violations or prevent future violations if there is reason to believe they may occur. *Walling v. Shenandoah Dives Mining Co.*, 134 F. 2d 395 (CCA 10); *Walling v. Panther Creek Mines, Inc.*, 148 F. 2d 604 (CCA 7).

"It is true that in *Walling v. Helmerich & Payne*, 323 U. S. 37, 43, the Court held that a voluntary discontinuance of the use of split-day contracts after suit was begun did not make it improper for an injunction to be granted to restrain such contracts; but the holding there was based on the statements that 'Respondent has consistently urged the validity of the split-day plan and would presumably be free to resume the use of this illegal plan were not some effective restraint made.'

"And the Court in *Walling v. Hardwood Co.*, 325 U. S. 421, held that notwithstanding the ruling made in *Walling v. Helmerich & Payne*, *supra*, the lower Court's refusal to grant injunction as to future activity when there appeared 'a bona fide intention to comply with the law and not to resume the wrongful acts' was approved.

"During World War II and before any improvement in conditions were required or made by the defendants, contracts for large amounts of defendants' products were made by the War Department to be used for food for the armed services; and during the manufacture of the products under these contracts frequent inspections of the plant and manufacturing processes were made by Inspectors of the Army and no complaint or criticism was received.

"The individual defendant's affidavit says: 'Since 1945, every suggestion ever made by Food and Drug Administration Inspectors, or by other inspectors, in the interests of sanitation in said Bakery's operation, has been followed, as well as all other measures which appeared advisable to assure clean products and plant.'

"The Court cannot say, under the facts admitted, that the defendants are complying with the Act, but the extent to which they may be remiss or what additional precautions, if any, should be taken, is not clear. The Court is of the opinion that in view of the expressed desire and efforts of the defendants to comply with the law that it is unnecessary and perhaps improper, *in advance of a hearing on the merits*, to grant an injunction.

"The motion for preliminary injunction is, therefore, denied."

The case was held in abeyance to permit another inspection to be made of the defendants' plant. After an inspection on 3-23-50 disclosed no significant insanitary conditions, the complaint for injunction was dismissed on 5-18-50.

23405. Bakery products. (Inj. No. 165.)

COMPLAINT FOR INJUNCTION FILED: 5-9-47, Dist. Md., against Community Baking Co., a corporation, Cumberland, Md., and John A. Kreiling, vice president and plant manager.

CHARGE: The complaint alleged that the defendants had been and were, at the time of filing of the complaint, introducing into interstate commerce, bread, rolls, cakes, and sweet bakery products which were adulterated within the meaning of 402 (a) (3) and (4) by reason of the presence in such articles of insect parts, rodent hair, whole larvae, whole insects, and feather barbules, and by reason of the preparation of the articles under insanitary conditions.

DISPOSITION: On 6-4-47, the defendants having consented, the court entered a temporary injunctive decree enjoining the defendants against commission of the acts complained of. Thereafter, the defendants filed a petition for rescission of the temporary injunction; and on 9-13-48, the court entered an order rescinding the injunction and dismissing the proceedings.

23406. Bakery products. (Inj. No. 114.)

COMPLAINT FOR INJUNCTION FILED: 9-21-45, Dist. Md., against Margaret T. McIntyre, t/a McIntyre's Bakery, Westernport, Md., and J. Milton McIntyre.

CHARGE: The complaint alleged that since May 6, 1944, the defendants had operated a plant engaged in the manufacture and shipment in interstate commerce of bakery products which were adulterated as follows:

402 (a) (3)—the articles consisted in part of a filthy substance; and 402 (a) (4)—the articles were manufactured under insanitary conditions.

The complaint alleged also that various inspections and examinations had been made by representatives of the Food and Drug Administration; that the defendants had been warned to remedy the defects existing in their method of operating; and that despite such warnings, the defendants had continued to manufacture and ship in interstate commerce adulterated bakery products.

DISPOSITION: On 10-19-45, the defendants having consented, the court entered a temporary injunction enjoining the defendants against introducing into

interstate commerce, bakery products adulterated as alleged in the complaint. On 9-16-47, after a hearing in the matter, an order was entered rescinding the temporary injunction and dismissing the proceedings.

FLOUR

23407. Flour. (Inj. No. 185.)

COMPLAINT FOR INJUNCTION FILED: 2-4-48, N. Dist. Ohio, against Hardesty Milling Co., a corporation, Dover, Ohio.

CHARGE: The complaint alleged that the defendant had been and was introducing and causing to be introduced and delivering and causing to be delivered, for introduction into interstate commerce, flour which was adulterated within the meaning of 402 (a) (3) and (4) in that it contained insects, insect fragments, larvae, pupae, moth scales, and rodent hair fragments, and in that it had been prepared under insanitary conditions whereby it may have become contaminated with filth.

The complaint alleged further that the insanitary conditions existing in defendant's plan arose out of the presence of beetles, moths, insect webbing, and rodents in and around the machinery and equipment used for preparing flour, thereby contaminating such food and subjecting it to contamination; and, further, that the defendant continued and, unless restrained, would continue to introduce and cause to be introduced, for introduction into interstate commerce, flour adulterated as aforesaid.

DISPOSITION: On 2-13-48, the court issued a temporary injunction enjoining the defendant from introducing or causing to be introduced and delivering or causing to be delivered, for introduction into interstate commerce, flour adulterated within the meaning of Sections 402 (a) (3) and (4). On 9-10-48, the defendant having sold its plant, the action was dismissed.

23408. Flour. (F. D. C. No. 33875. S. Nos. 2-236/41 L.)

QUANTITY: 188 100-lb. bags at Tallahassee, Fla.

SHIPPED: 6-16-52 and 7-15-52, from Springfield, Ill.

LIBELED: 9-24-52, N. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-30-53. Consent—claimed by Pillsbury Mills, Inc., Springfield, Ill., and converted to animal feed.

MACARONI AND NOODLE PRODUCTS

23409. Egg noodles (2 seizure actions). (F. D. C. Nos. 33674, 34063. S. Nos. 33-811 L, 34-690 L, 53-711 L.)

QUANTITY: 136 cases, 24 5-oz. bags each, at Detroit, Mich., and 15 cases, 24 5-oz. bags each, and 25 cases, 24 8-oz. bags each, at Granite City, Ill.

SHIPPED: Between 6-20-52 and 7-28-52, from St. Louis, Mo., by American Beauty Macaroni Co.

LABEL IN PART: (Bag) "American Beauty Tenderized Pure [or "Krinkly 'Non-Skid' "] Egg Noodles * * * Contains 5½% Egg Solids."

LIBELED: 9-4-52, S. Dist. Ill., and 9-23-52, E. Dist. Mich.

CHARGE: 402 (b) (1)—a valuable constituent, egg, had been in whole or in part omitted from the article when shipped; 403 (a)—the label statement "contains 5½% Egg Solids" was false and misleading; and 403 (g) (1)—the article contained less than 5½ percent by weight of the solids of egg or egg

yolk, the minimum permitted by the definition and standard of identity for noodles.

DISPOSITION: The American Beauty Macaroni Co., claimant, filed an answer in each case, denying that the article was adulterated or misbranded as alleged. Pursuant to a stipulation entered into between counsel for the claimant and the United States attorneys, an order was entered on 11-14-52 transferring the case brought in the Eastern District of Michigan to the Southern District of Illinois for the purpose of consolidation with the Illinois case. Thereafter, interrogatories served upon the claimant by the Government were answered.

The claimant having consented, the court entered an order on 10-30-53 condemning the article and ordering that it be delivered to charitable institutions. It was found that since the 136-case lot, which had been in the possession of the marshal after seizure, had been inadvertently destroyed, the decree was amended on 3-10-54 to delete the order of delivery for that lot.

MISCELLANEOUS CEREALS

23410. Unpopped popcorn. (F. D. C. No. 39300. S. No. 35-177 M.)

QUANTITY: 28 cases, 24 1-lb. bags each, at Somerset, Ky.

SHIPPED: 9-1-55, from Muncie, Ind.

LIBELED: 7-13-56, E. Dist. Ky.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-14-56. Default—sold for conversion to animal feed.

23411. Wheat. (F. D. C. No. 39179. S. No. 40-999 M.)

QUANTITY: 93,600 lbs. at Minneapolis, Minn.

SHIPPED: 7-13-56, from Regan, N. Dak., by Regan Farmers Union Co-Op.

LIBELED: 8-1-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 8-16-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 8,050 lbs. to be disposed of for use as animal feed.

CONFECTIONERY

23412. Candy. (Inj. No. 9.)

COMPLAINT FOR INJUNCTION FILED: 2-25-41, against Mrs. I. G. Edwards, t/a Sunshine Peanut Butter Co., Atlanta, Ga.

CHARGE: The complaint alleged that the defendant had been manufacturing, packing, and shipping candy under insanitary conditions whereby the candy may have become contaminated with filth; that such food consisted in whole or in part of a filthy, putrid, and decomposed substance which was unfit for food and adulterated within the meaning of 402 (a) (3) and (4); and that such food was being offered for interstate shipment at various intervals and was being shipped in interstate commerce.

The complaint alleged further that various inspections made by Food and Drug inspectors revealed the existence of insanitary conditions and that the defendant was warned to remedy the defects existing in her method of operation and not to ship adulterated candy in interstate commerce in violation of the Federal Food, Drug, and Cosmetic Act; that despite such warnings, the defendant had failed to remedy such defects and was continuously manu-

facturing and packing adulterated candy; and that the defendant would continue to ship such food in interstate commerce unless restrained by the court.

DISPOSITION: On 3-1-41, the court, with the consent of the defendant, entered an order restraining the defendant from introducing or delivering for introduction into interstate commerce candy or any other food adulterated within the meaning of 402 (a) (3) and (4) during the pendency of the action.

Subsequent investigation having revealed that the defendant had moved to a new plant which was being operated under satisfactory sanitary conditions, the court entered an order on 8-24-42 dismissing the action.

23413. Candy and confectionery. (Inj. No. 26.)

COMPLAINT FOR INJUNCTION FILED: 7-20-42, W. Dist. Wash., against Joseph Vinikow, t/a Parisian Candy Co., Seattle, Wash.

CHARGE: The complaint alleged that the defendant had been and was engaged in the business of manufacturing and shipping candy and confectionery; that the raw materials from which such products were manufactured were continually exposed to dust, dirt, and filth, and were stored in a rodent-infested warehouse; and that the defendant had shipped, was shipping, and would, unless restrained, continue to ship in interstate commerce candy, confectionery, and food adulterated within the meaning of 402 (a) (3) and (4), in that such products consisted in part of a filthy substance and had been prepared and packed under insanitary conditions.

DISPOSITION: On 7-29-42, the court issued a restraining order enjoining the defendant during the pendency of the action from directly or indirectly introducing or delivering for introduction into interstate commerce, or in any manner aiding or assisting in the introduction or delivery for introduction into interstate commerce, any adulterated candy, confectionery, or food. This restraining order was dismissed by the court on or about 12-6-43.

DAIRY PRODUCTS

BUTTER, CHEESE, AND MILK PRODUCTS

23414. Butter and cheese products. (Inj. No. 129.)

COMPLAINT FOR INJUNCTION FILED: 3-13-46, W. Dist. Ky., (against Kingan & Co., Inc., Louisville, Ky., Marion Creameries, Inc., Lebanon, Ky., and the officials of the latter corporation, namely, Charles R. Munns, vice president, Frank C. Gunn, treasurer, and Wilbur E. Long, plant manager.

NATURE OF BUSINESS: The complaint alleged that Kingan & Co., Inc., in addition to other activities, was engaged in distributing butter and cheese, much of which was shipped in interstate commerce; that prior to 7-29-45, this corporation owned a plant at Lebanon, Ky., which was operated by another firm under contract; that title to the plant was transferred by Kingan & Co., Inc., to Marion Creameries, Inc., on 7-29-45; that the plant had been operated by Marion Creameries, Inc., since 8-7-45; and that Kingan & Co., Inc., still continued to take the entire output of the plant, namely, butter and cheese products, and to ship these articles from the plant under its own name as consignor.

CHARGE: The complaint charged that the defendants had been and still were introducing into interstate commerce butter and cheese products which were adulterated within the meaning of 402 (a) (3) and (4) by reason of the

presence of a filthy substance in such articles and the preparation and packing of these articles under insanitary conditions.

DISPOSITION: On 3-29-46, Marion Creameries, Inc., and the individual defendants having agreed to the entry of a temporary injunction, the court entered an order enjoining, during the pendency of the action and until further order of the court, Marion Creameries, Inc., and the individual defendants from introducing and delivering for introduction into interstate commerce any food product adulterated within the meaning of 402 (a) (3) and (4).

In the case of Kingan & Co., Inc., an answer was filed stating that it no longer was operating in the State of Kentucky, having legally withdrawn from this State about 1-1-46. On 10-14-46, the court entered an order dismissing the injunction proceedings as to Kingan & Co., Inc., for lack of jurisdiction.

On 8-18-47, the action against Marion Creameries, Inc., and the individual defendants was dismissed without prejudice.

23415. Butter and cheese products. (Inj. No. 119.)

COMPLAINT FOR INJUNCTION FILED: 11-21-45, N. Dist. Iowa, against Wapsie Valley Creamery, Inc., Independence, Iowa, and Clarence A. Nielsen, vice president and general manager of the corporation.

CHARGE: The complaint alleged that the defendants, from on or about the month of June 1945 to the time of filing the complaint, had been preparing and processing butter and cheese products under grossly insanitary conditions at the corporation's plant at Independence, Iowa; that the articles so prepared and processed contained manure, spiders, ants, weevils, miscellaneous insect parts, rodent hairs, straw, plant material, sand, rust, cow hairs, and mud, and were adulterated within the meaning of 402 (a) (3) and (4); and that the articles had been and still were being shipped in interstate commerce by the defendants.

DISPOSITION: On 2-8-46, with the consent of the parties, the court entered an order providing for continuance of the case until the December 1946 term of court on condition that the defendants should not ship or cause to be shipped in interstate commerce prior to such term of court any cheese or other milk products manufactured at the defendants' Independence plant.

On 12-16-46, the parties having stipulated that the corporation's milk supply used in the manufacture of cheese and other milk products was then in substantial compliance with the law, and the court having been advised that the sanitary conditions of the defendants' plant was then of such character that no serious objection thereto was made by the Government, an order was entered permitting the defendant to ship its products in interstate commerce if in compliance with the law and continuing the injunction proceedings until 4-21-47 for consideration on whether such proceedings should be dismissed.

On 4-21-47, the court entered an order dismissing the proceedings since it appeared that the defendants had greatly improved the sanitary conditions of their plant and were operating in compliance with the law.

23416. Cheese and milk products. (Inj. No. 79.)

COMPLAINT FOR INJUNCTION FILED: 1-10-45, N. Dist. Iowa, against August Lindner, t/a Odebolt Dairy, Odebolt, Iowa.

CHARGE: The complaint alleged that the defendant, at the time of filing the complaint, had been engaged in the business of preparing, processing, and manufacturing cheese and other milk products under grossly insanitary conditions, which products were offered for shipment in interstate commerce at various

intervals; that such products were adulterated within the meaning of 402 (a) (3) and (4) in that they contained barnyard manure, flies, dirt, rust, animal hairs, pus from infected cow udders, and other filthy and deleterious substances unfit for food; and that they had been prepared, processed, and manufactured under insanitary conditions whereby they may have become contaminated with filth.

The complaint alleged further that inspections made by inspectors of the Food and Drug Administration had revealed the existence of insanitary conditions in defendant's plant; that the defendant had been warned to remedy the defects existing in his method of making, processing, and manufacturing such products, and had been warned not to ship adulterated products in interstate commerce in violation of the Federal Food, Drug, and Cosmetic Act; that notwithstanding such warnings, the defendant had failed to remedy the objectionable conditions and continued to make, process, and manufacture cheese and milk products under insanitary conditions; and that the defendant continued and, unless restrained, would continue to ship such products and offer them for shipment and introduction into interstate commerce.

DISPOSITION: On 2-14-45, the court issued a temporary injunction enjoining the defendant from shipping or introducing into interstate commerce any cheese or other milk products prepared, processed, or manufactured in his Odebolt plant, pending further hearing and order of the court. Thereafter, the defendant having gone out of business, the court entered an order on 5-22-45 dissolving the temporary injunction.

23417. Butter. (F. D. C. No. 35845. S. No. 61-725 L.)

QUANTITY: 16 66-lb. cartons at Kansas City, Mo.

SHIPPED: 7-22-53, from Salina, Kans., by Harding Cream Co.

LABEL IN PART: (Carton) "199085 Ice Cream Sweet."

LIBELED: On or about 9-18-53, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained filthy substance when shipped.

DISPOSITION: 11-6-53. Default—converted to animal feed.

EGGS

23418. Shell eggs and frozen eggs. (Inj. No. 86.)

COMPLAINT FOR INJUNCTION FILED: 3-5-45, N. Dist. W. Va., against Bowser Sales & Trading Corp., Sistersville, W. Va., and William H. Bowser, principal stockholder and directive head of the corporation.

CHARGE: The complaint alleged that the defendants, at the time of filing the complaint, had been buying and storing shell eggs and had been breaking, packaging, and freezing whole eggs under insanitary and unhealthful conditions whereby the eggs were contaminated with filth; that the eggs consisted in part of a filthy and decomposed substance which was unfit for food and were adulterated within the meaning of 402 (a) (3) and (4); that the eggs were being prepared by the defendants at their Sistersville plant and were being stored at that plant and at a commercial cold storage plant at Parkersburg, W. Va.; and that the Government was informed and believed that the eggs were being prepared and stored for shipment in interstate commerce.

DISPOSITION: On 3-5-45, the court issued a temporary restraining order enjoining the defendants from shipping or offering for shipment in interstate commerce shell eggs and frozen eggs from their Sistersville plant and from

the Parkersburg cold storage plant until further order of the court. This order was modified on 3-10-45, so as not to restrain the defendants from shipping in interstate commerce shell eggs or frozen eggs which were not adulterated as alleged in the complaint. The defendants filed an answer, averring that the complaint failed to state a claim upon which relief could be granted and denying that they had violated or were about to violate the Federal Food, Drug, and Cosmetic Act.

On 7-14-45, the Government having declined to proceed with the trial, the court dismissed the action with prejudice.

23419. Frozen eggs. (Inj. No. 149.)

COMPLAINT FOR INJUNCTION FILED: 8-27-46, Dist. N. Dak., against Armour & Co., a corporation, operating as Armour Creameries, at Fargo, N. Dak.

CHARGE: The complaint alleged that the defendant was selling and delivering for sale in interstate commerce and introducing and delivering for introduction into interstate commerce frozen eggs which were adulterated under 402 (a) (3) in that they were sour, moldy, putrid, and unfit for human consumption, and that despite repeated warnings, the defendant had continued to utilize bad eggs in its frozen pack.

DISPOSITION: On 9-3-46, the court entered a restraining order enjoining the defendant, pending a hearing in the matter, against the introduction into interstate commerce of any frozen eggs adulterated within the meaning of the Act. Following this order, no further violation of the Act with respect to the defendant's Fargo plant was found; and on 12-9-47, the injunction proceedings were dismissed.

23420. Frozen eggs (2 seizure actions). (F. D. C. Nos. 33675, 36928. S. Nos. 53-019 L, 53-097 L, 72-763 L, 72-766 L.)

QUANTITY: 235 30-lb. cans (2 lots consisting of 176 cans and 59 cans) at National Stock Yards, Ill.

SHIPPED: On 7-24-52 and 7-25-52, quantities of shell eggs were shipped from Mark, Iowa, and St. Louis, Mo., to National Stock Yards, Ill., and on 7-28-54, 59 30-lb. cans of frozen eggs were shipped from St. Louis, Mo., to National Stock Yards, Ill. The latter shipment was a return shipment.

LABEL IN PART: (59-can lot) "Whole Eggs Distributed by Continent Frozen Foods Corp., National Stock Yards, Ill." and (176-can lot) "Frozen Egg Products * * * Egg Yolk and White."

RESULTS OF INVESTIGATION: The 176-can lot of frozen eggs was prepared from the above-mentioned shell eggs at the plant of the packer, Continent Frozen Foods Corp.

LIBELED: 9-5-52 and 8-26-54, E. Dist. Ill.

CHARGE: 402 (a) (3)—the 59-can lot contained plant fragments and decomposed eggs when shipped, and the 176-can lot contained insects, insect parts, and decomposed eggs while held for sale; and 402 (a) (4)—the 176-can lot was prepared under insanitary conditions.

DISPOSITION: On 9-17-52, Continent Frozen Foods Corp., National Stock Yards, Ill., filed an answer to the libel involving the 176-can lot, denying that the article was adulterated as alleged. The claimant and the Government served interrogatories upon each other, which interrogatories were answered.

On 2-21-55, the claimant having consented to the entry of a decree, the court entered a decree ordering that the article be released to the claimant under

bond for purposes of segregation. On the same date, the court, pursuant to a stipulation entered into between counsel for the claimant and the United States Attorney, ordered that the seizure action against the 59 cans be consolidated with the actions against the 176 cans and that the decree entered in the case involving the 176-can lot apply to the case involving the 59-can lot. After attempts to segregate the eggs proved unsatisfactory, the court ordered that they be denatured.

FISH AND SHELLFISH

23421. Frozen whole squid. (F. D. C. No. 35377. S. No. 50-112 L.)

QUANTITY: 215 slabs weighing a total of 5,722 lbs. at New York, N. Y.

SHIPPED: 5-7-53, from outside the territorial limits of the State of New York.

LIBELED: 8-13-53, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 9-14-53. Default—destruction.

23422. Frozen sturgeon. (F. D. C. No. 35373. S. No. 50-113 L.)

QUANTITY: 29 frozen sturgeon weighing a total of 311 lbs. at New York, N. Y.

SHIPPED: 4-6-53, from Perry, Fla.

LIBELED: 8-13-53, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 8-28-53. Default—destruction.

23423. Crabmeat. (Inj. No. 40.)

COMPLAINT FOR INJUNCTION FILED: 11-4-42, E. Dist. Va., against Frederick H. Ayers and George W. Ayers, partners, t/a F. H. Ayers & Son, Portsmouth, Va.

CHARGE: The complaint alleged that the defendants had been and were engaged in the business of cooking, picking, preparing, packing, and shipping, in interstate commerce, crabmeat which was adulterated within the meaning of 402 (a) (3) and (4) in that it contained a filthy animal substance and had been prepared and packed under insanitary conditions.

The complaint alleged further that various investigations made by Food and Drug Administration inspectors had revealed the existence of insanitary conditions in defendants' plant; that the defendants had been warned to remedy the defects existing in their method of operation and not to ship products that were adulterated in violation of the Federal Food, Drug, and Cosmetic Act; that despite such warnings, the defendants had failed to remedy such defects and were continuously manufacturing and packing adulterated crabmeat; and that the defendants would continue to ship adulterated crabmeat in interstate commerce unless restrained.

DISPOSITION: On 11-17-42, the court issued a preliminary injunction enjoining the defendants from shipping, in interstate commerce, crabmeat adulterated within the meaning of 402 (a) (3) and (4). On 9-28-43, an order was entered dissolving the preliminary injunction.

23424. Crabmeat. (Inj. No. 36.)

COMPLAINT FOR INJUNCTION FILED: 8-26-42, Dist. Md., against Frederick Straten Jewett and William Henry Travis Coulbourne, copartners, t/a Coulbourne & Jewett, St. Michaels, Md.

CHARGE: The complaint alleged that the defendants had been and were engaged in the business of cooking, picking, preparing, packing, and shipping, in interstate commerce, crabmeat which was adulterated within the meaning of 402 (a) (3) and (4) in that it contained a filthy animal substance and had been prepared and packed under insanitary conditions.

The complaint alleged further that investigations made by Food and Drug Administration inspectors had revealed the existence of insanitary conditions in defendants' plant; that the defendants had been warned to remedy the defects existing in their method of operation and not to ship products that were adulterated in violation of the Federal Food, Drug, and Cosmetic Act; that despite such warnings, the defendants had failed to remedy the defects existing in their plant and were continuously manufacturing and packing adulterated crabmeat; and that the defendants would continue to ship adulterated crabmeat in interstate commerce unless restrained.

DISPOSITION: On 9-18-42, the court issued a preliminary injunction enjoining the defendants from introducing or delivering for introduction into interstate commerce any crabmeat that was adulterated by reason of consisting in whole or in part of any filthy, putrid, or decomposed substance, or being otherwise unfit for food, or by reason of having been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth or been rendered injurious to health. No further proceedings with respect to final judgment in the matter have been reported.

FRUITS AND VEGETABLES*

DRIED FRUIT

23425. Dried apple chops. (Inj. No. 237.)

COMPLAINT FOR INJUNCTION FILED: 5-1-51, W. Dist. Va., against Battletown Fruit Co., a partnership, Staunton and Berryville, Va., and Charles J. Allen and Frank C. Hutteman, partners.

CHARGE: The complaint alleged that the defendants had been and were, at the time of filing the complaint, engaged in the business of processing, preparing, storing, distributing, selling, and otherwise introducing and delivering, for introduction into interstate commerce, dried apple chops, a food, which was adulterated within the meaning of 402 (a) (3) in that it contained rodent excreta pellets, rodent urine, rodent hairs, and other filth, and within the meaning of 402 (a) (4) in that it had been held under insanitary conditions.

The complaint alleged further that the insanitary conditions existing in the defendants' warehouses at Staunton and Berryville resulted from, and consisted of, the presence therein of filth, rodents, rodent excreta pellets, rodent urine, rodent hairs, filthy and unwholesome substances in and around places in the warehouses, and general carelessness on the part of the defendants and their employees; that the defendants had on hand in their warehouses approximately 2,000,000 lbs. of such adulterated food, which constituted a menace to interstate commerce; and, upon information and belief, that the defendants would continue to introduce and deliver for introduction into interstate commerce this food adulterated, as aforesaid, unless restrained by the court.

*See also Nos. 23401, 23402.

DISPOSITION: On 5-10-51, the court entered a preliminary injunction restraining the defendants from introducing into interstate commerce dried apple chops, or any other such article of food, adulterated within the meaning of 402 (a) (3) and (4). The preliminary injunction remained in effect through continuations until 8-2-52, at which time it expired. No action was taken to make the injunction permanent.

FRUIT BUTTER AND JELLY

23426. Apple butter. (Inj. No. 102.)

COMPLAINT FOR INJUNCTION FILED: 7-23-45, M. Dist Pa., against Knouse Corp., Peach Glen, Pa.

CHARGE: The complaint alleged that the defendant had been preparing, manufacturing, processing, and packing apple butter; that the defendant's product was being offered for shipment and was being shipped in interstate commerce at various intervals; and that the product was adulterated within the meaning of 402 (a) (3) and (4) in that it contained filthy or decomposed substances which were unfit for food and, further, in that it had been prepared, manufactured, processed, and packed under insanitary conditions.

The complaint alleged further that inspections made by inspectors of the Food and Drug Administration had revealed the existence of insanitary conditions in defendant's plant; that defendant was warned to remedy the defects existing in its method of operation, and that products produced under such conditions and adulterated with filth would be contraband in interstate commerce; that despite such warnings, the defendant had failed to effect a remedy of the insanitary conditions in and around its plant, and had continued to have on hand for shipment in interstate commerce stocks of apple butter produced under insanitary conditions and from decomposed raw materials; and that the defendant would continue to ship adulterated apple butter in interstate commerce unless restrained.

DISPOSITION: The court, on 7-23-45, issued a temporary restraining order enjoining the defendant from shipping adulterated apple butter in interstate commerce; this order expired, by its terms, 10 days after its issuance.

On 9-20-45, the court issued a preliminary injunction restraining the defendant from shipping adulterated apple butter in interstate commerce during the pendency of the action. On 11-29-46, after it was shown that the defendant had moved into new premises and was operating under satisfactory sanitary conditions, the court entered an order dissolving the preliminary injunction and dismissing the complaint.

23427. Blackberry jelly and red raspberry jelly. (F. D. C. No. 39249. S. Nos. 50-633/4 M.)

QUANTITY: 15 8-oz. jars of blackberry jelly and 135 8-oz. jars of red raspberry jelly at Los Angeles, Calif.

SHIPPED: 2-6-56, from Brooklyn, N. Y., by Mactavish Preserves Co., Inc.

LABEL IN PART: (Jar) "Mactavish Dietetic Blackberry Jelly [or "Red Raspberry Jelly"] Made Without Sugar A Delicious, Wholesome Food for Sugar, Salt, And Starch Restricted Low Calorie Diet."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 80 milligrams of sodium per 100 grams.

LIBELED: 5-23-56, S. Dist. Calif.

CHARGE: 403 (c)—the articles were imitations of other foods, blackberry jelly and red raspberry jelly, and their labels failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; and 403 (j)—the articles purported to be and were represented as foods for special dietary use by reason of their use as a means of regulating the intake of sodium, and their labels failed to bear, as required by regulations, a statement of the number of milligrams of sodium contained in 100 grams of the articles and a statement of the number of milligrams of sodium contained in an average serving of the articles.

DISPOSITION: 7-23-56. Default—delivered for use of a charitable organization.

VEGETABLES AND VEGETABLE PRODUCTS

23428. Great Northern beans. (F. D. C. No. 39253. S. No. 19-591 M.)

QUANTITY: 68 100-lb. bags at Ashland, Ky., in possession of Ashland Grocery Co.

SHIPPED: 1-31-56 and 2-21-56, from Denver, Colo.

LIBELED: 5-25-56, E. Dist. Ky.

CHARGE: 402 (a) (3)—contained rodent excreta, rodent urine, and rodent hairs; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-20-56. Consent—claimed by Ashland Grocery Co. Segregated, 178 lbs. destroyed.

23429. Canned celery juice. (F. D. C. No. 39068. S. No. 48-121 M.)

QUANTITY: 33 cases, 24 1-pt. 2-oz. cans each, at New York, N. Y.

SHIPPED: 12-1-54, from Los Angeles, Calif., by Hain Pure Food Co., Inc.

LABEL IN PART: (Can) "Sherman's Arcadia Brand * * * Celery Juice Packed Without Added Water - Sugar Or Salt * * * packed without added water, sugar or salt for use in diets where seasoning is restricted."

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 85 milligrams of sodium per 100 grams.

LIBELED: 5-11-56, S. Dist. N. Y.

CHARGE: 403 (j)—the article, when shipped, purported to be and was represented as a food for special dietary use by reason of its use as a means of regulating the intake of sodium, and its label failed to bear, as required by regulations, a statement of the number of milligrams of sodium per 100 grams of the food and a statement of the number of milligrams of sodium in an average serving of the food.

DISPOSITION: 6-20-56. Default—destruction.

23430. Dried mushrooms. (F. D. C. No. 39056. S. No. 37-282 M.)

QUANTITY: 26 cases containing 35 lbs., 55 lbs., or 70 lbs. each at New York, N. Y.

SHIPPED: Between 1-1-56 and 4-12-56, from London, England, by Zylan, Ltd.

LIBELED: 5-4-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained maggots when shipped.

DISPOSITION: 5-24-56. Default—destruction.

23431. Dried mushrooms. (F. D. C. Nos. 39060, 39061. S. Nos. 37-283/4 M.)

QUANTITY: 11 cases containing 35 lbs. or 60 lbs. each at New York, N. Y.

SHIPPED: On various dates, from London, England, by Zylan, Ltd.

LIBELED: 5-9-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained maggots when shipped.

DISPOSITION: 6-6-56. Default—destruction.

23432. Canned soaked dried field peas. (Inj. No. 183.)

PETITION FILED: On 1-6-49, in the Middle District of Georgia, the United States attorney filed a petition for an order to show cause why the Georgia Canning Company, Inc., Wayside, Ga., and D. Vernon Shaver, president of the corporation, should not be punished for criminal contempt of the permanent injunction which had been entered against the corporation on 10-20-47. (Notice of judgment on foods, No. 13313.)

CHARGE: The petition alleged that, following the entry of the injunction, the defendants had shipped in interstate commerce, on or about 2-3-48 and 2-7-48 from Wayside, Ga., to Spartanburg and Greenville, S. C., quantities of canned soaked dried field peas which were adulterated under 402 (a) (3) in that they were contaminated with insects; and that such acts constituted contempt of the injunction.

DISPOSITION: On 1-6-49, the order to show cause was issued, following which the defendants pleaded not guilty to violation of the injunction. The case came on for trial before the court without a jury; and at its conclusion on 3-3-49, the court found the defendants guilty of violation of the injunction and in contempt, and imposed a fine of \$250 against each defendant.

MEAT AND POULTRY

23433. Canned corned beef. (F. D. C. No. 39267. S. No. 39-141 M.)

QUANTITY: 549 cases, 24 cans each, at Jacksonville, Fla.

SHIPPED: 3-6-56, from Montevideo, Uruguay by Frigorifico, Nacional, Uruguay.

LABEL IN PART: (Can) "Holly Brand Corned Beef Product of Uruguay Net Weight 12 oz."

LIBELED: 6-5-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained flies, maggots, and fly parts when shipped.

DISPOSITION: 7-12-56. Default—destruction.

23434. Canned corned beef. (F. D. C. No. 39279. S. No. 39-147 M.)

QUANTITY: 334 cans at Jacksonville, Fla.

SHIPPED: 3-6-56, from Montevideo, Uruguay, by Frigorifico, Nacional, Uruguay.

LABEL IN PART: (Can) "Holly Brand Corned Beef Product of Uruguay Net Weight 12 oz."

LIBELED: On or about 6-15-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained flies, maggots, and fly parts when shipped.

DISPOSITION: 7-12-56. Default—destruction.

23435. Dressed poultry. (Inj. No. 246.)

COMPLAINT FOR INJUNCTION FILED: On or about 2-26-52, Dist. Del., against H. & H. Poultry Co., a corporation, Selbyville, Del., and Homer Pepper, president, Horace Pepper, treasurer, Emerson Pepper, secretary, and Raymond Wells, plant manager, for the corporation.

CHARGE: The complaint alleged that the defendants were engaged in the business of slaughtering, preparing, packing, distributing, and causing to be introduced and delivered, for introduction into interstate commerce, dressed poultry which was adulterated within the meaning of 402 (a) (3) in that it consisted in part of a filthy substance such as fecal matter, crop material, filthy wax, and miscellaneous dirt and debris, and of a decomposed substance such as greenstruck poultry; and it was otherwise unfit for food by reason of extensively bruised poultry; that was adulterated within the meaning of 402 (a) (4) in that the poultry had been and was being prepared and packed at the corporation's plant under insanitary conditions; and that was adulterated within the meaning of 402 (a) (5) in that the article contained diseased poultry and consisted in part of poultry which had died otherwise than by slaughter.

The complaint alleged further that the insanitary conditions in the plant resulted from and consisted of the presence of fecal matter, crop material, filthy wax, and miscellaneous dirt and debris on the floors and walls of the plant and in and around the equipment used in slaughtering, preparing, and packing the article, and also from a general carelessness on the part of the defendants and their employees.

The complaint alleged also that the defendants were well aware that their activities were in violation of the law; that inspections had been made of the corporation's plant during February, September, and October 1951, when the insanitary conditions were brought to the attention of the defendants; that seizures had been made of filthy, decomposed, and diseased dressed poultry which had been shipped in interstate commerce by the corporation in October and December 1951; that notices of hearing had been issued to the defendants with respect to the interstate shipment of adulterated dressed poultry; and that despite the warnings conveyed to the defendants by such plant inspections, seizure actions, and notices of hearing, the defendants continued to cause adulterated dressed poultry to be introduced into interstate commerce.

DISPOSITION: On 2-26-52, the court entered a temporary restraining order enjoining the defendants for a period of ten days against doing the acts complained of. On 3-21-52, a hearing was held on the Government's motion for preliminary injunction, and at the conclusion thereof, the matter was taken under advisement by the court. Subsequently it was ascertained that the violative practices had been corrected; and, accordingly, on 5-9-52, an order was entered dismissing the action without prejudice and without costs to either party.

23436. Eviscerated chickens. (F. D. C. No. 39134. S. No. 40-985 M.)

QUANTITY: 899 boxes, 12 chickens each, at Hopkins, Minn.

SHIPPED: 5-16-56, from Atlanta, Ga., by Cagle's, Inc.

LIBELED: 5-25-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter and containing inedible viscera; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-12-56. Consent—claimed by Cagle's, Inc. Segregated; 798 lbs. destroyed.

23437. Frozen dressed turkeys. (F. D. C. No. 33825. S. No. 11-764 L.)

INFORMATION FILED: 1-27-53, N. Dist. Ill., against Marshall Poultry Co., a partnership, Chicago, Ill., and Milton J. Cohen and Julius Cohn, partners.

SHIPPED: 6-9-52, from Illinois to Ohio.

LABEL IN PART: "Arlington Processed Brand Drawn Young Tom Turkeys."

CHARGE: 402 (b) (2)—a product containing added water was substituted in whole or in part for frozen turkeys when shipped; and 402 (b) (4)—water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

PLEA: Guilty.

DISPOSITION: 4-10-53. Each individual fined \$500; partnership fined \$100, plus costs.

23438. Chop suey dinners. (F. D. C. No. 39283. S. No. 34-798 M.)

QUANTITY: 11 cases, 12 pkgs. each, each pkg. containing 1 can of noodles, 1 can of vegetables, and 1 btl. of sauce, at Indianapolis, Ind.

SHIPPED: 4-26-56, from Chicago, Ill., by Fuji Trading Co., Inc.

LABEL IN PART: (Pkg.) "Fuji Chop Suey Kwik Kit"; (can) "Fuji Chow Mein Noodles * * * Net Weight 3 Oz." and "Fuji New kwik cook Chop Suey Vegetables Contents 14½ Oz. Avd."; (btl.) "Fuji Sauce for Chop Suey and Table Use * * * Contents 2 fl. oz."

RESULTS OF INVESTIGATION: Examination showed that the chop suey vegetables were decomposed.

LIBELED: 7-2-56, S. Dist. Ind.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 9-20-56. Default—destruction.

NUTS

23439. Cashew nuts. (F. D. C. No. 39168. S. Nos. 25-961/2 M.)

QUANTITY: 402 25-lb. cans at Des Moines, Iowa.

SHIPPED: 5-25-56 and 6-7-56, from New York, N. Y.

LIBELED: 7-19-56, S. Dist. Iowa.

CHARGE: 402 (a) (3)—contained insects, insect webbing, and insect-damaged nuts while held for sale.

DISPOSITION: 8-27-56. Consent—252 cans claimed by Braun Importing Co., Inc., New York, N. Y., and 150 cans claimed by Zaloom Bros. Co., Inc., N. Y. Segregated; 232 lbs. from 252-can lot and 200 lbs. from 150-can lot destroyed.

23440. Shelled peanuts. (F. D. C. No. 35451. S. Nos. 56-104/5 L.)

QUANTITY: 2,500 lbs. in unlabeled bags and 25 100-lb. labeled bags at Oswego, N. Y.

SHIPPED: 6-1-53 and 6-2-53, from Dawson, Ga., and Franklin, Va.

LIBELED: 8-1-53, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained live insects while held for sale.

DISPOSITION: 9-2-53. Consent—claimed by Oswego Candy Co., Inc., Oswego, N. Y. Segregated; 374 lbs. destroyed.

OILS AND FATS

23441. Olive oil. (F. D. C. No. 39288. S. No. 48-341 M.)

QUANTITY: 36 1-gal. cans at Newark, N. J.

SHIPPED: 5-22-56, from Brooklyn, N. Y., by Tania Importing Co., through Joseph Bruno, an itinerant peddler.

LABEL IN PART: (Can) "Puglia Brand * * * Pure Olive Oil Imported From Lucca, Italy."

LIBELED: On or about 6-27-56, Dist. N. J.

CHARGE: 402 (b) (2)—cottonseed oil with little or no olive oil had been substituted for olive oil when shipped; and 403 (a)—the label statement "Pure Olive Oil Imported From Lucca, Italy" was false and misleading as applied to the article, which contained cottonseed oil with little or no olive oil.

DISPOSITION: 8-13-56. Default—delivered to a charitable organization after being relabeled.

23442. Table and cooking oil. (F. D. C. No. 39145. S. Nos. 31-819 M, 49-297 M.)

QUANTITY: 116 cases, 6 1-gal. cans each, at Detroit, Mich.

SHIPPED: 3-6-56 and 5-9-56, from Chicago, Ill., by Columbus Packing Co.

LABEL IN PART: (Can) "Columbus Brand A Compound Oil."

LIBELED: 6-8-56, E. Dist. Mich.

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in whole or in part omitted from the article when shipped; 402 (b) (2)—corn oil and cottonseed oil with little or no olive oil had been substituted for a blend of corn oil and olive oil; and 403 (a)—the label statement "An Excellent Blend of Choice Corn Oil and Virgin Olive Oil" was false and misleading.

DISPOSITION: 10-24-56. Consent—claimed by Columbus Packing Co. and brought into compliance with the law by removal of the article from the 1-gal. cans into a bulk tank of oil.

23443. Table and cooking oil. (F. D. C. No. 39187. S. No. 58-246 M.)

QUANTITY: 27 cases, 6 1-gal. cans each, at Kansas City, Mo.

SHIPPED: 4-13-56, from Chicago, Ill., by Columbus Packing Co.

LABEL IN PART: (Can) "Columbus Brand A Compound Oil."

LIBELED: On or about 8-10-56, W. Dist. Mo.

CHARGE: 402 (b) (1)—valuable constituents, corn and olive oil, had been in whole or in part omitted from the article when shipped; 402 (b) (2)—cottonseed oil with little or no corn or olive oil had been substituted for a blend of corn oil and olive oil; and 403 (a)—the label statement "An Excellent Blend of Choice Corn Oil and Virgin Olive Oil" was false and misleading.

DISPOSITION: 9-28-56. Default—delivered to a city institution.

SPICES, FLAVORS, AND SEASONING MATERIALS

23444. Horseradish. (F. D. C. No. 32800. S. Nos. 63-214 K, 69-437 K, 84-772 K, 6-872/3 L, 6-881 L.)

INFORMATION FILED: 7-28-52, S. Dist. N. Y., against Christ H. Treffinger, t/a Bronx Home Food Products, Bronx, N. Y., and Carl Schaefer, an employee.

SHIPPED: Between 11-17-49 and 2-19-51, from New York to Massachusetts, Pennsylvania, and Ohio.

LABEL IN PART: (Btl.) "Premier Horse Radish Made from Selected Horseradish Roots And Seasoned Vinegar" or "Bronx Home Pure Prepared Horse Radish Made From Selected Roots And Seasoned Vinegar."

CHARGE: 402 (b) (2)—parsnip roots had been substituted in part for horseradish roots; and 403 (a)—the label statements “Premier Horse Radish Made From Selected Horseradish Roots And Seasoned Vinegar” and “Bronx Home Pure Prepared Horse Radish Made From Selected Roots And Seasoned Vinegar” were false and misleading in that they represented and suggested that the article consisted entirely of horseradish roots and seasoned vinegar, whereas parsnip roots had been substituted in whole or in part for horseradish roots.

PLEA: Not guilty.

DISPOSITION: The case came on for trial before a jury on 11-17-54. On 11-22-54, the jury returned a verdict of not guilty as to Defendant Schaefer and guilty as to Defendant Treffinger; whereupon the court fined Treffinger \$1,200.

Defendant Treffinger filed a notice of appeal; and, on 7-6-55, the United States Court of Appeals for the Second Circuit, in an opinion reported in *United States v. Christ H. Treffinger*, 224 F. 2d 855 (C. A. 2, 1955), reversed the judgment of the lower court on the basis of error in the charge to the jury.

In addition, the appellate court held that the lower court's denial of the appellant's motion to dismiss several of the counts on the ground that the defendant had not been furnished portions of the samples taken by the Government for analysis was not erroneous since the defendant had not made a reasonable written request for the samples. The Government having decided not to re-try the matter, the case was dismissed on 6-28-56.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

23445. Mineral tablets and tablets of B complex vitamins with iron. (Inj. No. 234.)

COMPLAINT FOR INJUNCTION FILED: 10-19-51, S. Dist. Ind., against Nature's Mineral Food Co., a partnership, Indianapolis, Ind., and Perry B. Smith and Thornton B. Smith, partners in the partnership, alleging that the defendants had been introducing and delivering, and were continuing to introduce and deliver, for introduction into interstate commerce, mineral tablets, and tablets of B complex vitamins with iron which were misbranded.

LABEL IN PART: “The M. F. Co's Minerals 270 Tablets * * * Contains: Potassium Iodide, Calcium Phosphate, Calcium Carbonate, Sodium Phosphate, Iron Sulfate Exsiccated, Sodium Chloride. (Iodized Salt),” “55 B Complex Vitamins with Iron * * * Contains Vitamin B₁, 1 mg. (thiamin chloride) Vitamin B₂, .5 mg. (riboflavin) Niacin, 5 mg. Sodium Iron Pyrophosphate, 0.4 gr. Yeast plus inert compounding ingredients.”

ACCOMPANYING LABELING: Leaflets entitled “The M. F. Co.'s Vitamin B Complex” and “Mineral Supplement”; mimeographed sheets entitled “Nature's Minerals Vitamins,” “Cochrane On The Ball,” “Important,” and “Dr. William Brady Says”; a mimeographed letter addressed “Good Morning Dear Friend”; and cards entitled “Supplement Your Mineral and Vitamin Diet.”

CHARGE: 403(a), the labeling of the articles contained false and misleading representations that the articles would supply a universal need; that they would be effective in reducing illness, increasing efficiency; in treating lack of

*See also No. 23429.

resistance, loss of weight, congestion of blood, weakness of muscles ; in effecting normal nerve functioning, lactation, reproduction, and digestive action ; in preventing weakness of the legs, flabbiness of heart muscles, lowering of body temperature ; in maintaining health and strength ; in fortifying the body against inroads of sickness ; in antagonizing the aging process ; in preventing a rundown condition ; in correcting unnatural basic disorders that cause illness or disease regardless of their names ; in making over physical wrecks, causing them to be happy, strong, free from stubborn suffering, pain, and soreness of long duration, and to be able to sleep ; in preventing the return of agonizing pain ; in treating nervousness, stomach seeming to be tied up in a knot, insomnia, inability to work, irritability ; in treating patients helpless with rheumatism, suffering with indigestion and stomach trouble, or rundown generally ; in treating chronic rheumatism, hay fever, hives, sick headache, nervous headache, allergy, crumbling teeth, excessive tooth decay, recurring or chronic spinal curvature, growing pains, adult tetany (cramps in legs or arms at night), recurring chilblains, watery "drip-drip" from the nose with fits of sneezing which many Yankee wiseacres ascribe to imaginary sinusitis and which they think sounds better than "catarrh."

The mineral tablets and the tablets of B complex vitamins with iron, together with an article of drug, Mo Tee Na tablets, were alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs, No. 3736.

DISPOSITION: 11-21-51. The defendants having consented to the entry of a decree, the court issued a permanent injunction perpetually enjoining the defendants from the acts complained of.

23446. Vitamin-mineral tablets and multiple vitamin capsules. (F. D. C. No. 39313. S. Nos. 52-388 M, 52-931 M.)

QUANTITY: 1 3,000-tablet drum, 10 300-tablet btls., and 54 100-tablet btls. of vitamin-mineral tablets, and 1 40,000-capsule drum and 6 61-capsule btls. of multiple vitamin capsules at Bayonne, N. J.

SHIPPED: 9-16-54 and 2-29-56, from Floral Park, N. Y.

RESULTS OF INVESTIGATION: Analyses showed that the vitamin-mineral tablets contained 67 percent of the declared amount of vitamin A and that the multiple vitamin capsules contained 45 percent of the declared amount of vitamin A, 50 percent of the declared amount of vitamin D, and less than 80 percent of the declared amount of vitamin B₁.

LIBELED: On or about 8-3-56, Dist. N. J.

CHARGE: 402 (b) (1)—valuable constituents, namely, vitamin A, in the vitamin-mineral tablets, and vitamins A, D, and B₁, in the multiple vitamin capsules, had been in part omitted or abstracted from the articles while held for sale ; and 403(a)—the label statements (vitamin-mineral tablets) "Each Three Tablets Contain: * * * Vitamin A 5000 U. S. P. Units" and (multiple vitamin capsules) "Each Capugel Contains: Vitamin A * * * 15,000 U. S. P. Units * * * Vitamin D * * * 1,000 U. S. P. Units * * * Vitamin B-1 * * * 10 mg." were false and misleading.

DISPOSITION: 9-18-56: Default—destruction.

23447. Vitamin capsules and mineral tablets. (F. D. C. No. 38942. S. Nos. 45-888/9 M.)

QUANTITY: 60 cartons, each containing 24 45-capsule btls. of vitamin capsules; also, 14 cartons, each containing 120 pkgs. and each pkg. containing 30 vitamin capsules and 180 mineral tablets.

SHIPPED: 9-12-51, from Los Angeles, Calif.

RESULTS OF INVESTIGATION: Analyses showed that both lots contained less than the declared amounts of vitamin C and that the 14-carton lot contained also less than the declared amount of vitamin A.

LIBELED: 2-7-56, E. Dist. Pa.

CHARGE: 60-carton lot. 402 (b) (1)—a valuable constituent, vitamin C, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Capsule Contains * * * Vitamin C (Ascorbic Acid) 1,000 USP Units (50 Mg.)" was false and misleading.

14-carton lot. 402 (b) (1)—valuable constituents; vitamin A and vitamin C, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "One Red * * * Tablet * * * provides: Vitamin A (fishliver oil) 15,000 U. S. P. Units * * * Vitamin C (ascorbic acid) 75 Mg." was false and misleading.

DISPOSITION: 5-17-56. Default—destruction.

23448. Tru-Vite Tabsules. (F. D. C. No. 39236. S. No. 52-886 M.)

QUANTITY: 24 btls., each btl. containing 100 Tru-Vite Tabsules at New York, N. Y.

SHIPPED: 3-16-56 and 3-21-56, from Jersey City, N. J., by Schiff Bio-Food Products, Inc.

LABEL IN PART: (Btl.) "Tabsules Tru-Vite."

RESULTS OF INVESTIGATION: Analysis showed that the article contained 72 percent of the declared amount of vitamin C.

LIBELED: 5-18-56, S. Dist. N. Y.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin C, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "One Tru-Vite a day provides 100% MDR or more of all essential vitamins in Natural Form as follows: * * * C, 60 Mg. (1200 Units) or 200%" was false and misleading.

DISPOSITION: 6-25-56. Default—destruction.

23449. Vitamin tablets. (F. D. C. No. 35688. S. No. 52-625 L.)

QUANTITY: 106 100-tablet btls. at Upper Montclair, N. J.

SHIPPED: 8-12-53, from Brooklyn, N. Y.

RESULTS OF INVESTIGATION: Analysis showed that the product contained 10 percent and 5 percent of the declared amounts of vitamin A and vitamin C (ascorbic acid), respectively, per 6 tablets.

LIBELED: 10-6-53, Dist. N. J.

CHARGE: 402 (b) (1)—valuable constituents, vitamin A and vitamin C, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Six Tablets Contain: * * * Vitamin A 4000 U. S. P. Units * * * Ascorbic Acid U. S. P. 90 mg." was false and misleading.

DISPOSITION: 11-10-53. Default—destruction.

23450. Multivitamin tablets. (F. D. C. No. 39234. S. No. 23-643 M.)

QUANTITY: 47 100-tablet bottles at Boston, Mass.

SHIPPED: Prior to 1952 and on 4-3-53, from Long Beach, Calif.

LIBELED: 5-14-56, Dist. Mass.

CHARGE: 402 (b) (1)—valuable constituents, vitamins A, B₁, C, and D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the following label statements were false and misleading: "Each tablet provides the following proportions of the minimum adult daily requirements of Vitamins: D . . . 166% . . . 667 U. S. P. Units A . . . 33% . . . 1334 U. S. P. Units B₁ . . . 33% (0.34 mg.) . . . 111 U. S. P. Units * * * C . . . 33% (10.0 mg.) . . . 200 U. S. P. Units."

DISPOSITION: 7-9-56. Default—destruction.

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² (23404) Injunction contested. Contains opinion of the court.

³ (23401) Seizure contested. Contains opinion of the court.

⁴ (23409, 23420) Seizure contested.

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⁶ (23444) Prosecution contested.

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Ashland Grocery Co.:		frozen eggs.....	⁴ 23420
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Ayers, F. H., and G. W.:		crabmeat.....	¹ 23424
crabmeat.....	¹ 23423	Coulbourne & Jewett. <i>See</i> Coulbourne, W. H. T., and Jewett, F. S.	
Ayers, F. H., & Son. <i>See</i> Ayers, F. H., and G. W.		Edwards, Mrs. I. G.:	
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Chattanooga Bakery, Inc.:		Hardesty Milling Co.:	
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frozen dressed turkeys.....	23437	butter.....	23417

¹ (23405-23407, 23412-23416, 23418, 23419, 23423-23426, 23435, 23445) Injunction issued.

² (23404) Injunction contested. Contains opinion of the court.

³ (23401) Seizure contested. Contains opinion of the court.

⁴ (23409, 23420) Seizure contested.

⁵ (23432) Contempt proceedings for violation of injunction.

⁶ (23444) Prosecution contested.

	N. J. No.		N. J. No.
Hutteman, F. C. :		Odebolt Dairy. <i>See</i> Lindner,	
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Jewett, F. S. :		Parisian Candy Co. <i>See</i> Vini-	
crabmeat-----	¹ 23424	kow, Joseph.	
Juice Industries, Inc. :		Parks, D. A. :	
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Kingan & Co., Inc. :		Pepper, Emerson; Homer; and	
butter and cheese products---	¹ 23414	Horace :	
Knouse Corp. :		dressed poultry-----	¹ 23435
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Long, W. E. :		Tru-Vite Tabsules-----	23448
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McIntyre, J. M. :		canned soaked dried field	
bakery products-----	¹ 23406	peas -----	⁵ 23432
McIntyre, M. T. :		Smith, P. B., and T. B. :	
bakery products-----	¹ 23406	mineral tablets and tablets of	
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tyre, M. T.		iron -----	¹ 23445
Mactavish Preserves Co., Inc. :		Sunshine Peanut Butter Co. <i>See</i>	
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berry jelly-----	23427	Tania Importing Co. :	
Marion Creameries, Inc. :		olive oil-----	23441
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Munns, C. R. :		candy and confectionery-----	¹ 23413
butter and cheese products---	¹ 23414	Wapsie Valley Creamery, Inc. :	
Nature's Mineral Food Co. :		butter and cheese products--	¹ 23415
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B complex vitamins with		dressed poultry-----	¹ 23435
iron-----	¹ 23445	Zylan, Ltd. :	
Nielsen, C. A. :		dried mushrooms-----	23430, 23431
butter and cheese products--	¹ 23415		

¹ (23405-23407, 23412-23416, 23418, 23419, 23423-23426, 23435, 23445) Injunction issued.

² (23404) Injunction contested. Contains opinion of the court.

³ (23401) Seizure contested. Contains opinion of the court.

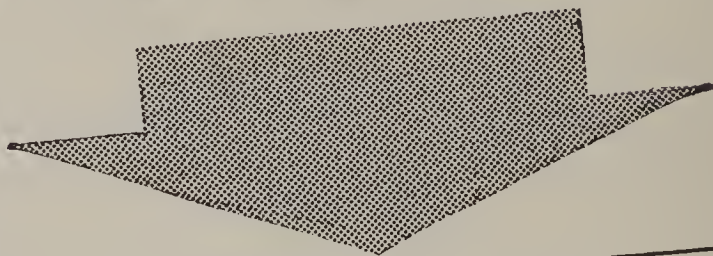
⁵ (23432) Contempt proceedings for violation of injunction.

⁶ (23444) Prosecution contested.

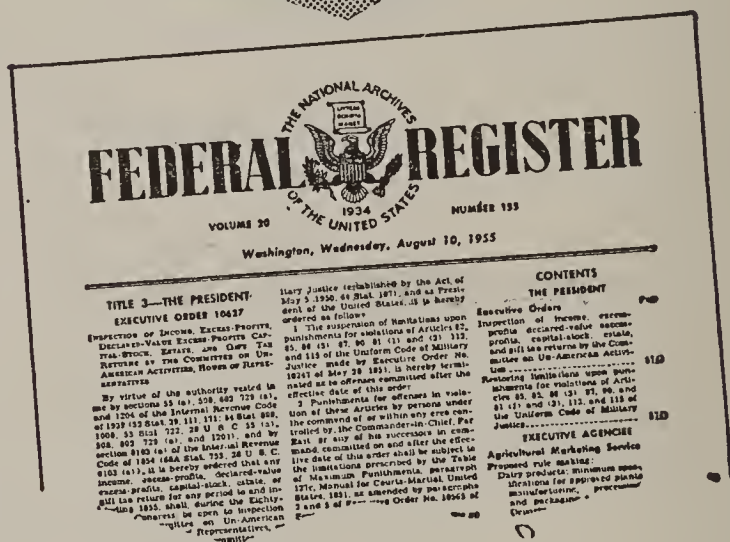
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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23451-23550

FOODS

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CURRENT SERIAL RECORD

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U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which default or consent decrees of condemnation were entered; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; and (3) proceedings for violation of probation terminated upon a plea of guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and violation of probation proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *February 28, 1958.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23451-23550

Adulteration, Section 402 (a) (1), the article contained an added poisonous substance which may have rendered it injurious to health; Section 402 (a) (2), the article, in one case, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in two other cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403 (k), the article contained an artificial coloring, and it failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIALS*

23451. Coffee. (F. D. C. No. 35595. S. Nos. 52-888 L, 71-671 L, 80-708/9 L, 88-849/50 L.)

INFORMATION FILED: 1-24-57, S. Dist. N. Y., against Ph. Wechsler & Son, Inc., New York, N. Y., and Abraham Wechsler, secretary and acting president.

SHIPPED: Between 3-9-54 and 5-24-54, from New York to New Jersey, Connecticut, Massachusetts, and Pennsylvania.

CHARGE: 402 (b) (2)—mixtures of coffee and a cereal product, coffee and spent coffee grounds, or coffee, a cereal product, and spent coffee grounds had been substituted in part for coffee when shipped; and 402 (b) (4)—cereal products and/or spent coffee grounds had been added to the article to increase its bulk and weight and reduce its quality.

PLEA: Guilty.

DISPOSITION: 1-30-57. Corporation—\$1,100 fine; individual—sentence suspended and placed on probation for 1 day.

*See also Nos. 23520, 23521.

23452. Green coffee. (F. D. C. No. 39291. S. Nos. 52-064 M, 52-311 M, 52-395 M.)

QUANTITY: 45 150-lb. bags at New York, N. Y.

SHIPPED: 6-6-56, from Colombia.

LIBELED: 7-13-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained moldy coffee beans and live insects while in interstate commerce.

DISPOSITION: 8-3-56. Default—destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23453. Confection rolls and fudge brownies. (F. D. C. No. 39321. S. Nos. 19-134 M, 34-933 M, 35-124 M.)

INFORMATION FILED: 7-19-56, N. Dist. Ill., against Holiday Delight Baking Corp., t/a Holiday Delight Cheese Cake Co., Chicago, Ill., and Maier Kushner, president of the corporation.

SHIPPED: 11-15-55 and 12-12-55, from Illinois to Ohio.

LABEL IN PART: (Pkg.) "Holiday Delight Confection Roll [or "Fudge Brownies" or "Butter Pecan Confection Roll"]."

CHARGE: 402 (a) (3)—contained insects, insect fragments, and rodent hairs; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-30-56. Fine of \$2,500, plus costs, against corporation and \$500 against individual.

23454. Corn Chips. (F. D. C. No. 39520. S. No. 35-344 M.)

QUANTITY: 40 cases, 24 cans each, at Nashville, Tenn.

SHIPPED: 7-9-56, from Atlanta, Ga., by Filler Products, Inc.

LABEL IN PART: (Can) "Filler's Taste Thrillers Vacuum Packed Corn Chips A Corn Cracker * * * Net Wt. 1¾ oz."

LIBELED: 8-10-56, M. Dist. Tenn.

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-22-56. Consent—destruction.

23455. Corn Chips. (F. D. C. No. 39525. S. No. 27-342 M.)

QUANTITY: 28 cases, 24 cans each, at Corpus Christi, Tex.

SHIPPED: 7-10-56, from Atlanta, Ga., by Filler Products, Inc.

LABEL IN PART: (Can) "Filler's Taste Thrillers Vacuum Packed Corn Chips * * * Net Wt. 1¾ oz."

LIBELED: 8-14-56, S. Dist. Tex.

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-3-56. Default—destruction.

23456. Korn-Kurls. (F. D. C. No. 39497. S. Nos. 24-891/2 M.)

QUANTITY: 14 cases, 24 pkgs. each, and 5 cases, 48 pkgs. each, at Vancouver, Wash.

SHIPPED: 9-17-56, from Portland, Oreg., by Hood Sales Co.

LABEL IN PART: (Pkg.) "Hood's Korn-Kurls 19¢ * * * Net Wt. 3¾ oz." and "Hood's Korn-Kurls 10¢ * * * Net Wt. 1¾ oz."

LIBELED: 10-3-56, W. Dist. Wash.

CHARGE: 403 (k)—contained artificial coloring and failed to bear labeling stating that fact when shipped.

DISPOSITION: 11-28-56. Default—destruction.

23457. Dishlets (thin heart-shaped bakery shells). (F. D. C. No. 39424. S. No. 47-808 M.)

QUANTITY: 8 cases at South Fallsburg, N. Y.

SHIPPED: 6-29-56, from Chicago, Ill., by Pfohl's.

LABEL IN PART: (Case) "500 No. 4 Edible Dishlets Ingredients: Wheat Flour, Vegetable Shortening, Salt, Cornstarch."

LIBELED: 8-24-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insect fragments and rodent hair fragments; and 402 (a) (4)—packed and held under insanitary conditions.

DISPOSITION: 9-26-56. Default—destruction.

23458. Ice cream cones. (F. D. C. No. 39353. S. No. 52-385 M.)

INFORMATION FILED: 10-26-56, E. Dist. N. Y., against Joshua Yohay, t/a United States Baking Co., at Brooklyn, N. Y.

SHIPPED: 5-2-56, from New York to New Jersey.

LABEL IN PART: (Can) "Honey Brand Cones."

CHARGE: 402 (a) (3)—contained rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-28-56. Defendant sentenced to serve 60 days in jail; motion made for reduction of sentence. On 1-21-56 court vacated previous sentence and placed defendant on probation for 1 year.

23459. Ice cream cones. (F. D. C. No. 39318. S. No. 46-691 M.)

QUANTITY: 22 cartons, 250 cups each, at Trenton, N. J.

SHIPPED: 6-25-56, from Philadelphia, Pa., by Novelty Cone Co.

LABEL IN PART: (Carton) "250 Cake Cups Good with Custard or Ice Cream."

LIBELED: 8-2-56, Dist. N. J.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous and deleterious substance, boric acid, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 9-7-56. Default—destruction.

FLOUR

23460. Flour. (F. D. C. No. 39327. S. Nos. 25-940/1 M.)

INFORMATION FILED: 9-4-56, S. Dist. Iowa, against Hyde & Vredenburg, Inc.,

t/a Chariton Wholesale Grocery, Chariton, Iowa, and John Neighbour, warehouse superintendent for the corporation.

ALLEGED VIOLATION: Between 11-2-55 and 3-19-56, the defendants caused quantities of flour, while held for sale after shipment in interstate commerce, to be placed in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta; and 402 (a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-2-56. Corporation fined \$500 and individual \$20.

23461. Flour. (F. D. C. No. 39324. S. Nos. 51-633 M, 51-637 M.)

INFORMATION FILED: 7-17-56, Dist. N. Mex., against New Mexico Mill & Elevator Co., a corporation, Clovis, N. Mex., and John Ray Pritchett, president.

SHIPPED: 3-8-56, from New Mexico to Texas.

LABEL IN PART: (Bag) "50 lbs. Lucky Lady Enriched Flour" and "10 lbs. Lucky Lady Flour."

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-25-56. Fine of \$200 against defendants jointly.

23462. Enriched flour. (F. D. C. No. 39384. S. No. 19-501 M.)

INFORMATION FILED: 1-30-57, S. Dist. Ohio, against Frank L. Worley, t/a Frank L. Worley Flour Mill, Rainsboro, Ohio.

SHIPPED: 4-27-56, from Ohio to Kentucky.

LABEL IN PART: (Bag) "25 Lbs. Worley's Best Flour 'Enriched'."

CHARGE: 402 (a) (3)—contained rodent hair fragments and insect fragments when shipped; 402 (a) (4)—prepared and packed under insanitary conditions; 402 (b) (1)—valuable constituents, thiamine, riboflavin, iron, and niacin, had been in part omitted and abstracted from the article; 403 (g) (1)—the article failed to conform to the definition and standard of identity for enriched flour since it contained smaller amounts of thiamine, riboflavin, iron, and niacin than permitted by the standard; and 403 (a)—the label statement "8 Ounces of this Enriched Flour contain not less than the following proportions of the minimum daily requirements of Vitamin B₁ 100%, Riboflavin 30%, Iron 65%; and 8 mg. of Niacin" was false and misleading.

PLEA: Guilty.

DISPOSITION: 2-8-57. Fine, \$200.

23463. Enriched flour. (F. D. C. No. 39341. S. No. 42-839 M.)

INFORMATION FILED: 8-17-56, W. Dist. Okla., against Oklahoma Flour Mills Co., a corporation, El Reno, Okla.

SHIPPED: 1-28-56, from Oklahoma to Arkansas.

LABEL IN PART: (Bag) "5 Lbs. Net Wt. Bleached Phosphated Flour The Claflin Flour Mills Claflin, Kans. White Goose Flour Enriched."

CHARGE: 402 (b) (1)—valuable constituents, thiamine, riboflavin, and niacin, had been in part omitted from the article when shipped; and 403 (g) (1)—the article failed to conform to the definition and standard of identity for enriched flour since it contained per pound less than 2 mg. of thiamine, less than 1.2

mg. of riboflavin, and less than 16 mg. of niacin, the minimum permitted by the definition and standard.

PLEA: Guilty.

DISPOSITION: 9-7-56. Fine, \$1,000.

MISCELLANEOUS CEREALS

23464. Unpopped popcorn. (F. D. C. No. 39276. S. No. 40-240 M.)

QUANTITY: 80,000 lbs. at Chicago, Ill.

SHIPPED: 4-16-56, from Napoleon, Ohio, by Huddle Popcorn Co.

LIBELED: 6-13-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent hairs when shipped; and 402 (a) (4)—held under insanitary conditions on the premises of the shipper.

DISPOSITION: 9-19-56. Consent—claimed by the Albert Dickinson Co., Chicago, Ill., and denatured for use as pigeon feed.

23465. Rice. (F. D. C. No. 39197. S. Nos. 40-356/8 M, 40-874 M.)

INFORMATION FILED: 10-30-56, Dist. S. Dak., against Lystad & Redick, Inc., Grand Forks, N. Dak., and Russell Kersbergen, the firm's representative at Sioux Falls, S. Dak.

ALLEGED VIOLATION: Between 8-1-55 and 3-14-56, while a quantity of rice was being held for sale at Sioux Falls, S. Dak., after shipment in interstate commerce, the defendants caused a quantity of 50 percent DDT tracking powder, a poisonous rodenticide, to be placed in close proximity to the rice under conditions whereby the rice may have become contaminated with poison, which act resulted in the rice being adulterated.

CHARGE: 402 (a) (4)—held under insanitary conditions whereby it may have been rendered injurious to health.

PLEA: Guilty.

DISPOSITION: 1-15-57. Each defendant fined \$300.

23466. Rice. (F. D. C. No. 39585. S. No. 40-498 M.)

QUANTITY: 153 100-lb. bags and 12 80-lb. bags at Minneapolis, Minn.

SHIPPED: 6-21-56, from South Dos Palos, Calif.

LIBELED: 10-2-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-18-56. Consent—claimed by Poph-Itt Cereals, Inc., Minneapolis, Minn. Segregated; 450 lbs. destroyed.

23467. Rice. (F. D. C. No. 39483. S. No. 46-984 M.)

QUANTITY: 41 100-lb. bags at Philadelphia, Pa.

SHIPPED: 2-27-56 and 4-25-56, from Stuttgart, Ark.

LIBELED: 9-25-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-23-56. Default—destruction.

23468. Rice. (F. D. C. No. 39522. S. No. 33-480 M.)

QUANTITY: 72 25-lb. bags at North Kansas City, Mo.

SHIPPED: 6-25-56, from Houston, Tex.

LIBELED: 8-13-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 8-20-56. Default—consumption by animals.

23469. Sweet rice. (F. D. C. No. 39434. S. No. 37-295 M.)

QUANTITY: 4 100-lb. bags at New York, N. Y., in possession of Sun Warehouses, Inc.

SHIPPED: 11-8-55, from South Dos Palos, Calif.

LIBELED: 8-29-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-26-56. Default—destruction.

23470. Parboiled rice. (F. D. C. No. 38971. S. No. 36-007 M.)

QUANTITY: 992 100-lb. bags at Chicago, Ill., in possession of Griswold & Bateman Warehouse Co.

SHIPPED: 10-21-55, from Houston, Tex.

LIBELED: 3-1-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-20-56. Consent—claimed by Griswold & Bateman Warehouse Co. Segregated; approximately 4,100 lbs. destroyed.

DAIRY PRODUCTS

BUTTER

23471. Butter. (F. D. C. No. 38605. S. Nos. 7-685 M, 7-700 M, 11-120 M.)

INFORMATION FILED: 6-11-56, E. Dist. Okla., against H. A. Pruitt Produce Co., Inc., Ardmore, Okla., and Bryce B. Williams, secretary-treasurer.

ALLEGED VIOLATION: On 3-23-55, the defendant gave to a firm engaged in the business of shipping butter in interstate commerce a guaranty to the effect that butter shipped by it under the guaranty would not be adulterated or misbranded.

On 8-29-55, the defendant caused to be shipped to the holder of the guaranty, at El Reno, Okla., a quantity of butter which was adulterated.

CHARGE: 402 (a) (3)—contained insects, insect fragments, fly parts, fly setae, moth scales, mites, rodent hairs, and cow hairs, when shipped; and filthy and decomposed cream was used in the preparation of the article.

PLEA: Nolo contendere.

DISPOSITION: 1-14-57. Corporation—\$1,000 fine; individual—\$500 fine.

23472. Butter. (F. D. C. No. 39231. S. No. 54-994 M.)

QUANTITY: 124 1-lb. cartons at Covington, Ky.

SHIPPED: 3-19-57, from Cincinnati, Ohio, by Merchants Creamery Co.

LABEL IN PART: (Carton) "Latonia Springs Butter Distributed by Summe & Ratermann Co., Inc., Covington, Ky."; (parchment wrapper) "4 Oz. Net * * * Dairy Brand Creamery Butter * * * Manufactured by Merchants Creamery Co., Cincinnati, Ohio."

LIBELED: 3-25-57, E. Dist. Ky.

CHARGE: 402 (b) (2)—deficient in butterfat when shipped.

DISPOSITION: 5-2-57. Default—delivered to a Government institution, for use as food.

CHEESE

23473. Cheese. (F. D. C. No. 39503. S. No. 47-934 M.)

QUANTITY: 163 62-lb. boxes at New York, N. Y.

SHIPPED: May 1956, from Milwaukee, Wis.

LIBELED: 11-11-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained maggots and other insects and decomposed cheese while held for sale.

DISPOSITION: 4-30-57. Default—destruction.

EGGS

23474. Frozen eggs. (F. D. C. No. 39452. S. No. 52-192 M.)

QUANTITY: 997 30-lb. cans at Brooklyn, N. Y.

SHIPPED: 8-17-56, from Sioux City, Iowa, by Empire Foods.

LABEL IN PART: "Blood Eggs [or "Inedible Eggs" or "Inedible Albumen"]
Unfit for Human Consumption."

LIBELED: 9-14-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 10-25-56. Consent—claimed by Empire Foods and denatured.

23475. Frozen eggs. (F. D. C. No. 39467. S. No. 56-019 M.)

QUANTITY: 600 30-lb. cans at Chicago, Ill.

SHIPPED: 8-27-56, from Nashville, Tenn., by Quality Egg Co.

LABEL IN PART: "Whole Egg Quality Egg Products Nashville, Tenn."

LIBELED: 9-17-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 10-24-56. Consent—claimed by Quality Egg Products, Inc.
Segregated; 210 cans denatured for use as animal feed.

23476. Frozen eggs. (F. D. C. No. 38676. S. No. 19-862 M.)

QUANTITY: 530 30-lb. cans at Richmond, Va.

SHIPPED: 10-19-55, from Greeneville, Tenn., by Pierce Produce, Inc.

LIBELED: 11-10-55, E. Dist. Va.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 12-8-55. Consent—claimed by S. B. Pierce, Greeneville, Tenn.
Segregated; 242 cans denatured.

FISH AND SHELLFISH

23477. Shredded fish. (F. D. C. No. 39448. S. No. 44-905 M.)

QUANTITY: 12 cartons at Washington, D. C.

SHIPPED: 7-21-56, from Chelsea, Mass., by Collins-Lee Co.

LABEL IN PART: (Carton) "5 Lbs. Fine Cut Salt Fish."

LIBELED: 8-29-56, Dist. of Columbia.

CHARGE: 402 (a) (3)—contained rodent hairs, maggots, and insect parts; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-28-56. Default—consumption by animals.

23478. Cod. (F. D. C. No. 39449. S. No. 44-906 M.)

QUANTITY: 194 cartons at Washington, D. C.

SHIPPED: 8-7-56, from Chelsea, Mass., by Collins-Lee Co.

LABEL IN PART: (Carton) "10 lbs. Cod Bits."

LIBELED: 8-29-56, Dist. of Columbia.

CHARGE: 402 (a) (3)—contained rodent hairs, maggots, insect eggs, and insect parts; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-28-56. Default—consumption by animals.

23479. Cod. (F. D. C. No. 39429. S. No. 58-980 M.)

QUANTITY: 170 boxes, 5 lbs. each, at Philadelphia, Pa.

SHIPPED: 7-16-56, from Chelsea, Mass., by Collins-Lee Co.

LIBELED: 8-21-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained maggots and insect parts; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-19-56. Default—destruction.

23480. Frozen haddock fillets. (F. D. C. No. 39410. S. Nos. 23-678/80 M, 23-683/4 M.)

QUANTITY: 1,284 50-lb. cartons and 995 30-lb. cartons at Providence, R. I.

SHIPPED: Between 2-29-56 and 6-2-56, from Fortune, Newfoundland, by Fortune Bay Products, Ltd.

LABEL IN PART: (Wrapper) "Skin-On Haddock Fillets Fortune Bay Product of Canada Flash Frozen Sea Foods 5 Pounds Net" and "Uni-Form Glazed Fish Fillets A Product of Canada Sea Pak Net Weight 5 Pounds * * * Each Portion Individually Flash-Frozen."

LIBELED: 8-16-56, Dist. R. I.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 2-8-57. Default—converted into fishmeal.

23481. Frozen haddock fillets. (F. D. C. No. 39510. S. Nos. 49-958/9 M.)

QUANTITY: 62 cartons, 9 5-lb. pkgs. each, at Roxbury, Mass.

SHIPPED: The fillets were from fish caught on or about 9-6-56, in the waters of the Atlantic Ocean outside the limits of Massachusetts.

LIBELED: 10-8-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 12-3-56. Default—consumption by animals.

23482. Frozen haddock fillets. (F. D. C. No. 39501. S. No. 50-023 M.)

QUANTITY: 288 cartons, 12 1-lb. pkgs. each, at Boston, Mass.

SHIPPED: The fillets were from fish caught on or about 9-18-56, in the waters of the Atlantic Ocean outside the limits of Massachusetts.

LIBELED: 10-1-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 12-20-56. Consent—claimed by Genoa Fisheries, Inc., t/a Boston Bonnie Fisheries, Boston, Mass. Segregated; 184 pounds destroyed.

23483. Canned kipper snacks. (F. D. C. No. 39311. S. No. 50-660 M.)

QUANTITY: 1,500 cases, 50 3¼ oz. tins each, at Los Angeles, Calif.

SHIPPED: 5-16-56, from Norway.

RESULTS OF INVESTIGATION: Examination of 1,300 cans showed that 4 percent were springers, swells, and leakers, and that 2 cases contained more than 40 percent abnormal cans. Examination of swells and leakers showed the presence of decomposed fish.

LIBELED: 7-30-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 8-29-56. Consent—claimed by Beesemyer-Ridnour Co., Los Angeles, Calif. Segregated; 13,529 cans destroyed.

23484. Frozen ocean perch fillets. (F. D. C. No. 39409. S. No. 49-778 M.)

QUANTITY: 492 10-lb. boxes at Gloucester, Mass.

SHIPPED: The fillets were from fish caught in the Atlantic Ocean, and were unloaded at Gloucester, Mass., on 6-27-56.

LABEL IN PART: (Wrapper) "Distributed By Cape Ann Fisheries Inc. Gloucester, Mass. Cape Ann Brand Ocean Perch Frosted Fillets."

LIBELED: 8-1-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 9-17-56. Default—consumption by animals.

23485. Frozen ocean perch fillets. (F. D. C. No. 39435. S. No. 49-967 M.)

QUANTITY: 35 12-lb. cartons at Gloucester, Mass.

SHIPPED: The fillets were from fish caught in the Atlantic Ocean outside the territorial limits of Massachusetts and unloaded at Gloucester, Mass., on 6-28-56.

LIBELED: 8-23-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 10-8-56. Default—destruction.

23486. Dried stockfish. (F. D. C. No. 39430. S. Nos. 37-293/4 M.)

QUANTITY: 3 110-lb. bales of dried stockfish at New York, N. Y., in possession of Sun Warehouses, Inc.

SHIPPED: Between 11-4-55 and 12-8-55, from Norway and Cambridge, Mass.

LIBELED: 8-27-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta, rodent hairs, and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-26-56. Default—destruction.

23487. Fresh dressed whitefish (2 seizure actions). (F. D. C. Nos. 39475, 39476. S. Nos. 4-871/2 M.)

QUANTITY: 10 50-lb. boxes and 8 55-lb. boxes at Chicago, Ill.

SHIPPED: 9-10-56, from Buffalo, N. Y., by N. Kotok Fish Co.

LABEL IN PART: "Fresh dressed whitefish, Produce of Canada Dore Lake * * * (Large)" and "Fresh dsd whitefish, Product of Canada, Lake-of-the-Woods."

LIBELED: 9-19-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained parasitic cysts and decomposed fish when shipped.

DISPOSITION: 10-19-56. Default—destruction.

23488. Frosted whiting fillets. (F. D. C. No. 39468. S. No. 49-925 M.)

QUANTITY: 251 5-lb. boxes at Boston, Mass.

SHIPPED: The fillets were from fish caught in the Atlantic Ocean outside the limits of Massachusetts and unloaded at Gloucester, Mass., on 8-15-56.

LIBELED: 9-14-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 12-10-56. Default—consumption by animals.

23489. Crabmeat. (F. D. C. No. 39356. S. Nos. 16-854/5 M, 20-361 M, 44-861 M, 44-867 M, 46-477 M.)

INFORMATION FILED: 10-25-56, E. Dist. Va., against Eastern Shore Seafood Co., a partnership, Onancock, Va., and Stanley E. Johnson and Thomas E. Johnson, partners.

SHIPPED: Between 6-12-56 and 6-19-56, from Virginia to Maryland, Pennsylvania, and District of Columbia.

LABEL IN PART: (Can) "Pride of the Shore Crab Meat * * * Contents One Pound."

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-5-56. Each individual defendant fined \$600; no sentence imposed against partnership.

23490. Crabmeat. (F. D. C. No. 39335. S. Nos. 764 M, 39-132 M.)

INFORMATION FILED: 10-12-56, N. Dist. Fla., against A. M. Moore, t/a Moore's Seafood Co., Eastpoint, Fla.

SHIPPED: 4-17-56 and 4-19-56, from Florida to Alabama and Maryland.

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-1-56. Imposition of sentence suspended and defendant placed on limited probation for 2 years.

23491. Oysters. (F. D. C. No. 39457. S. Nos. 45-008 M, 45-010 M.)

QUANTITY: 5 barrels, 200 cans each, 1 barrel, 50 cans each, and 3 barrels, 200 cans each, at Baltimore, Md.

SHIPPED: 8-29-56 and 8-30-56, from Portsmouth, Va.

LABEL IN PART: (Can) "Delicious Oysters 12 fl. oz. * * * Seacoast Oyster Co., Inc., Baltimore, Md."

RESULTS OF INVESTIGATION: The oysters originally had been shipped to the Seacoast Oyster Co., Inc., at Baltimore, Md., in 1-gal. cans, and upon receipt, were repacked by the consignee into cans and barrels.

LIBELED: On or about 9-7-56, Dist. Md.

CHARGE: 402 (b) (4)—water had been mixed or added to the oysters to increase their bulk or weight while held for sale.

DISPOSITION: 10-1-56. Default—destruction.

23492. Oysters. (F. D. C. No. 39466. S. No. 58-931 M.)

QUANTITY: 1 barrel containing 144 pints at Springfield, Ohio.

SHIPPED: 9-11-56, from Mauricetown, N. J., by Port Norris Oyster Co., Inc.

LABEL IN PART: (Can) "N. J. 1 Coast-Pact Oysters Fresh Raw Oysters."

LIBELED: 9-14-56, S. Dist. Ohio.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality.

DISPOSITION: 9-26-56. Default—delivered for the use of a Government institution.

23493. Frozen shrimp. (F. D. C. No. 39264. S. No. 23-895 M.)

QUANTITY: 179 cases, 20 pkgs. each, at Nogales, Ariz.

SHIPPED: During April and May 1956, from Nogales, Sonora, Mexico, by Walter Wm. Butler.

LABEL IN PART: (Pkg.) "Net Weight One Pound Frozen Fresh Shrimp" and "Net Wt. 10 Oz. Bait Shrimp not fit for human consumption * * * Product of Mexico."

LIBELED: 6-12-56, Dist. Ariz.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 10-29-56. Default—destruction.

23494. Frozen shrimp. (F. D. C. No. 39306. S. No. 60-455 M.)

QUANTITY: 170 cases, 20 or 48 10-oz. pkgs. each, at Chicago, Ill.

SHIPPED: 5-17-56, from Nogales, Ariz., by Walter Wm. Butler.

LABEL IN PART: (Carton) "Net Wt. 10 Oz. Bait Shrimp Not Fit for Human Consumption * * * Product of Mexico."

LIBELED: 7-23-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 8-17-56. Default—destruction.

23495. Frozen shrimp. (F. D. C. No. 39317. S. No. 24-004 M.)

QUANTITY: 112 cases, each containing 20 or 24 10-oz. pkgs., at Tucson, Ariz.

SHIPPED: 1-9-56, from Nogales, Sonora, Mexico, by Walter Wm. Butler.

LIBELED: 7-31-56, Dist. Ariz.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 10-29-56. Default—destruction.

23496. Frozen breaded shrimp. (F. D. C. No. 39498. S. Nos. 25-236/7 M.)

QUANTITY: 6 5-lb. packages and 17 cases, each case containing 12 2½-lb. pkgs., at Seattle, Wash.

SHIPPED: 8-2-56, from Los Angeles, Calif., by Fishing Processors, Inc.

LABEL IN PART: (Pkg.) "Mrs. Friday's Fantail Breaded Shrimp [or "Select Frozen Breaded Shrimp"]."

LIBELED: 10-2-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained insects, rodent hairs, and high bacteria counts; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-20-56. Default—destruction.

23497. Frozen breaded shrimp. (F. D. C. No. 39462. S. Nos. 25-234/5 M.)

QUANTITY: 6 cartons, 10 5-lb. boxes each, and 10 cases, 12 2½-lb. pkgs. each, at Seattle, Wash.

SHIPPED: 7-27-56, from Los Angeles, Calif., by Fishking Processors, Inc.

LABEL IN PART: (Box and Pkg.) "Tropic Sea Frozen Breaded Fantail Shrimp" and "Mrs. Friday's Select Frozen Breaded Shrimp."

LIBELED: 9-14-56, W. Dist. Wash.; amended libel 9-21-56.

CHARGE: 402 (a) (3)—contained insects, rodent hairs, and high bacteria counts; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 11-19-56. Default—destruction.

23498. Frozen fried shrimp. (F. D. C. No. 39445. S. Nos. 52-765/7 M.)

QUANTITY: 1,988 cases, each containing 12 boxes, at New York, N. Y.

SHIPPED: 7-30-56, from Tampa, Fla.

LABEL IN PART: (Box) "Net Wt. 6 Oz. Precooked Frosted Foods Red L French Fried Shrimp."

RESULTS OF INVESTIGATION: Frozen, peeled, deveined shrimp which was received from Tampa, Fla., by Red L New York Foods Corp. at Long Island City, N. Y., was coated with a batter, fried, packed, and frozen by that firm and delivered to a cold storage warehouse. Inspection of Red L New York Foods Corp. showed insanitary conditions which would result in contamination of the shrimp with filth.

LIBELED: 9-6-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent hairs while held for sale; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-11-56. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

23499. Canned applesauce. (F. D. C. No. 39334. S. No. 23-275 M.)

INFORMATION FILED: 9-26-56, W. Dist. N. Y., against Bert Richardson, t/a B. Richardson Canning Co., North Rose, N. Y.

SHIPPED: 1-16-56, from New York to Massachusetts.

LABEL IN PART: (Can) "Matchless Brand Apple Sauce Contents 1 lb. Webster-Thomas Co. Boston, Mass. Distributors."

CHARGE: 402 (a) (3)—contained insects, insect fragments, mites, and rodent hair fragments; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-12-56. Fine, \$200.

DRIED FRUIT

23500. Pitted dates. (F. D. C. No. 39303. S. No. 59-894 M.)

QUANTITY: 15 70-lb. boxes at Chicago, Ill.

SHIPPED: 11-28-55, from New York, N. Y.

LIBELED: 7-17-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects and insect excreta while held for sale.

DISPOSITION: 8-16-56. Default—destruction.

23501. String figs. (F. D. C. No. 39298. S. No. 52-141 M.)

QUANTITY: 282 50-lb. crates at New York, N. Y.

SHIPPED: From Greece about 2 years prior to the filing of the libel.

LIBELED: On or about 7-23-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-4-56. Default—destruction.

23502. Raisins. (F. D. C. No. 39472. S. No. 61-925 M.)

QUANTITY: 80 30-lb. cases at Paterson, N. J.

SHIPPED: 7-10-56 and 7-24-56, from Yonkers, N. Y.

LIBELED: On or about 9-28-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-23-56. Default—destruction.

FRESH FRUIT

23503. Cherries. (F. D. C. No. 39460. S. No. 52-091 M.)

QUANTITY: 100 barrels at New York, N. Y.

SHIPPED: 11-19-54, from Yugoslavia.

LIBELED: 9-20-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained maggots while held for sale.

DISPOSITION: 10-15-56. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

23504. Cannellini beans. (F. D. C. No. 39441. S. No. 37-297 M.)

QUANTITY: 42 110-lb. bags at New York, N. Y.

SHIPPED: 12-16-55, from Italy.

LIBELED: 9-6-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-26-56. Default—destruction.

23505. Dried fava beans. (F. D. C. No. 39487. S. No. 48-097 M.)

QUANTITY: 5 220-lb. bags at Brooklyn, N. Y., in possession of Sahadi Importing Co.

SHIPPED: 3-24-55 and 10-29-55, from Lebanon.

LIBELED: 10-3-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent-gnawed beans; and
402 (a) (4)—held under insanitary conditions.

DISPOSITION: 11-20-56. Default—destruction.

23506. Canned green beans. (F. D. C. No. 39586. S. No. 58-001 M.)

QUANTITY: 57 cases, 6 6-lb. 5 oz. cans each, at North Kansas City, Mo.

SHIPPED: 7-31-56, from Siloam Springs, Ark., by Allen Canning Co.

LABEL IN PART: (Can) "Linda Lee Cut Green Beans Contents 6 Lb. 5 Ozs. Packers & Distributors Gentry Canning Co., Gentry, Ark."

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 11-2-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 11-19-56. Default—destruction.

23507. Soybeans. (F. D. C. No. 39587. S. No. 35-267 M.)

QUANTITY: 19 100-lb. bags at Cleveland, Ohio.

SHIPPED: 4-2-56 and 4-19-56, from Norfolk, Va.

LIBELED: 10-4-56, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects and insect excreta while held for sale.

DISPOSITION: 10-30-56. Default—destruction.

23508. Canned corn. (F. D. C. No. 39244. S. No. 27-695 M.)

QUANTITY: 617 cases, 24 1-lb. cans each, at Denison, Tex.

SHIPPED: During July and August 1955, from Muskogee, Okla., by Griffin Grocery Co.

LABEL IN PART: (Can) "Raider * * * Cream Style White Sweet Corn."

LIBELED: 6-1-56, E. Dist. Tex.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped; and 403 (g) (1)—failed to conform to the definition and standard of identity for canned corn since it had not been processed by heat so as to prevent spoilage, as specified by the definition and standard.

DISPOSITION: 12-6-56. Default—destruction.

23509. Corn husks. (F. D. C. No. 39506. S. No. 59-977 M.)

QUANTITY: 10 bales, 50 lbs. each, at Chicago, Ill.

SHIPPED: 9-14-56, from Los Angeles, Calif., by Los Angeles Victoria Products Co.

LABEL IN PART: (Bale) "Corn Husks * * * Product of Mexico."

LIBELED: 10-4-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects and insect excreta when shipped.

DISPOSITION: 11-2-56. Default—destruction.

23510. Stuffed green olives. (F. D. C. No. 39278. S. No. 47-593 M.)

QUANTITY: 2,378 cartons, 12 jars each, at Somerville, N. J.

SHIPPED: 4-10-56 and 4-16-56, from Brooklyn, N. Y., by B. M. Reeves Co., Inc.

LABEL IN PART: (Jar lid) "Everoyal Brand Selected Olives Stuffed With Sweet Peppers Net Weight 21 Ounces."

LIBELED: 6-18-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained human hairs when shipped.

DISPOSITION: 8-7-56. Consent—claimed by B. M. Reeves Co., Inc., and re-conditioned by washing and repacking.

23511. Spanish olives. (F. D. C. No. 39491. S. No. 52-662 M.)

QUANTITY: 144 cases, 4 1-gal. bottles each, at New York, N. Y.

SHIPPED: 6-12-56, from Seville, Spain, by Villamarin Hnos SA.

LABEL IN PART: (Case) "Spanish Olives * * * Seconds."

RESULTS OF INVESTIGATION: The article was packed into bottles by J. Ossola Co., Inc., at New York, N. Y. Inspection of this company disclosed the existence of insanitary conditions.

LIBELED: On or about 10-9-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained wormy olives; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 11-1-56. Default—destruction.

23512. Dried black-eyed peas. (F. D. C. No. 39451. S. No. 51-703 M.)

QUANTITY: 257 100-lb. bags at Mountainair, N. Mex.

SHIPPED: 8-1-56, from Turlock, Calif., by Roy M. Day Co.

LIBELED: 9-6-56, Dist. N. Mex.

CHARGE: 402 (a) (3)—contained rodent hairs; and 402 (a) (4)—prepared, packed, and held under insanitary conditions.

DISPOSITION: 11-5-56. Consent—claimed by Roy M. Day Co. and denatured.

23513. Frozen spinach. (F. D. C. No. 39055. S. No. 25-069 M.)

QUANTITY: 3,120 cases, 24 10-oz. pkgs. each, at Pasco, Wash.

SHIPPED: 3-31-56, from Oxnard, Calif., by Stokely-Van Camp, Inc.

LABEL IN PART: (Pkg.) "Frozen Fresh Leaf Spinach * * * Pictsweet."

RESULTS OF INVESTIGATION: Examination showed that the article contained 8.5 parts per million of DDT.

LIBELED: 5-1-56, E. Dist. Wash.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of the law since the quantity of DDT contained on the article was greater than the tolerance fixed by the Secretary for such pesticide chemical on fresh spinach.

DISPOSITION: 10-18-56. Consent—claimed by Stokely-Van Camp, Inc. Efforts to reprocess the article being unsuccessful, it was destroyed.

23514. Frozen spinach. (F. D. C. No. 39125. S. No. 18-995 M.)

QUANTITY: 871 cartons, 24 pkgs. each, at Nashville, Tenn.

SHIPPED: 3-20-56, from Oxnard, Calif., by Stokely-Van Camp, Inc.

LABEL IN PART: (Pkg.) "Pictsweet Frozen Fresh Leaf Spinach Net Wt. 10 Oz."

RESULTS OF INVESTIGATION: Examination showed that the article contained up to 8.6 parts per million of DDT. Investigation showed that the article was packed from raw spinach which contained DDT in excess of the 7 parts per million tolerance.

LIBELED: 5-4-56, M. Dist. Tenn.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous and deleterious substance, DDT, which is unsafe within the meaning of the law since the quantity of DDT contained on the article was greater than the tolerance fixed by the Secretary for such pesticide chemical on fresh spinach, and could have been avoided by good manufacturing practice had the manufacturer

restricted his pack to that prepared from spinach within such tolerance.

DISPOSITION: 12-18-56. Consent—portion delivered to Food and Drug Administration and remainder destroyed.

23515. Canned turnip greens. (F. D. C. No. 39166. S. No. 43-972 M.)

QUANTITY: 2,095 cases, 24 #303 cans each, at Siloam Springs, Ark.

SHIPPED: Between 5-7-56 and 5-22-56, from Kansas, Okla., by Smith Canning Co.

LIBELED: 7-19-56, W. Dist. Ark.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 11-9-56. Default—destruction.

23516. Sweet pickle relish. (F. D. C. No. 39159. S. No. 15-291 M.)

QUANTITY: 28 cases, 4 1-gal. cans each, at Reno, Nev.

SHIPPED: 6-13-56, from San Francisco, Calif., by Tiedemann & McMorran, Inc.

LABEL IN PART: (Can) "Above Par Brand * * * Sweet Pickle Relish."

LIBELED: 7-11-56, Dist. Nev.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 9-21-56. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

23517. Canned tomatoes. (F. D. C. No. 38589. S. Nos. 23-463 M, 36-712 M, 37-951 M, 37-953 M.)

INFORMATION FILED: 3-21-56, Dist. Md., against Frank Wright, partner in the partnership of Wright Brothers, Federalsburg, Md.

SHIPPED: Between 10-11-55 and 11-29-55, from Maryland to New York and Massachusetts.

LABEL IN PART: (Can) "Much-More Brand * * * Tomatoes Packed For Food Products Co. of America Chicago, Ill." or "Preston Brand Tomatoes Albert W. Sisk And Son Distributors—Not Manufacturers Preston, Maryland And Aberdeen, Maryland U. S. A."

CHARGE: 402 (a) (3)—contained fly eggs, maggots, flies, spiders, and beetles; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-25-56. \$1,000 fine, plus costs.

23518. Canned tomatoes. (F. D. C. No. 38789. S. No. 37-941 M.)

QUANTITY: 953 cases, 24 1-lb. 12-oz. cans each, at Schenectady, N. Y.

SHIPPED: 10-24-55, from Hurlock, Md., by Albert W. Sisk & Son.

LABEL IN PART: (Can) "Brand De Cecco Selected Italian Style Peeled Tomatoes * * * Packed * * * By John N. Wright Jr. Hurlock, Md."

LIBELED: 12-8-55, N. Dist. N.Y.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-15-56. Consent—claimed by John N. Wright, Jr. The article was reconditioned by opening the cans and draining the contents over a mesh screen. The juice drained from the tomatoes was destroyed, and the tomato material which remained was reprocessed into pizza sauce.

23519. Canned tomatoes and tomato paste. (F. D. C. No. 39413. S. Nos. 52-265/6 M.)

QUANTITY: 109 cartons, each containing 24 No. 3 cans of tomatoes, and 100 cartons, each containing 6 No. 10 cans, of tomato paste, at Jersey City, N. J.

SHIPPED: On or about 4-19-55 and 10-16-55, from Italy and Stockton, Calif.

LIBELED: On or about 8-16-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed tomato material while held for sale.

DISPOSITION: 10-30-56. Default—destruction.

23520. Tomato juice. (F. D. C. No. 39342. S. Nos. 33-277 M, 51-814 M.)

INFORMATION FILED: 8-24-56, Dist. Colo., against Kuner-Empson Co., a corporation, Brighton, Colo., and Auzy Bowles, plant manager.

SHIPPED: 12-16-55 and 1-13-56, from Colorado to Wyoming.

LABEL IN PART: (Can) "Kuner's Tomato Juice Contents 1 qt. 14 fl. oz."

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

PLEA: Guilty.

DISPOSITION: 11-30-56. Corporation fined \$600; individual, \$200.

23521. Tomato juice. (F. D. C. No. 38603. S. Nos. 11-857 M, 20-226 M.)

INFORMATION FILED: 5-4-56, E. Dist. Pa., against Charles B. Silver & Son, Inc., Christiana, Pa., and G. Bartol Silver, president.

SHIPPED: 10-26-55 and 11-3-55, from Pennsylvania to New Jersey and Maryland.

LABEL IN PART: (Can) "Red Cross Brand Contents 1 qt. 14 fl. oz. Tomato Juice."

CHARGE: 402 (a) (3)—contained fly eggs, maggots, and decomposed tomato material; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 9-24-56. Each defendant fined \$500.

23522. Tomato puree, pizza sauce, and canned crushed tomatoes. (F. D. C. No. 38590. S. Nos. 1-832 M, 23-356 M, 32-755 M, 36-689 M, 36-691 M, 37-239 M, 37-724 M).

INFORMATION FILED: 3-26-56, Dist. Md., against Italian Style Tomato Packers, Inc., Snow Hill, Md., and Frank J. Siccardi, vice president.

SHIPPED: Between 8-26-55 and 11-21-55, from Maryland to New York, New Jersey, Pennsylvania, Rhode Island, and Virginia.

LABEL IN PART: (Can) "Lulu Brand Prepared Pizza Sauce * * * Distributed By Namrod Trading Co., New York, N. Y.," "Jonsco Brand * * * Pizza Sauce Distributed By Siccardi Bros., New York City, N. Y." "LaGuardia's Sal-Sa-Pomo Brand * * * Crushed Plum Italian Style and Round, Peeled Tomatoes Expressly Packed For Savio T. LaGuardia Co., Kingston, N. Y.," "Jiffy Brand Special Formula Prepared Pizza Sauce Packed in U. S. A. For Jiffy Food Products * * * Phila., Pa.," and "Ben-din's Pizza Sauce Siccardi Bros. New York City, N. Y. Distributors."

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

PLEA: Guilty—by corporation to all 7 counts of information and by individual to counts 5 and 6.

DISPOSITION: 9-28-56. Fine of \$525 against corporation and \$500 against individual, plus costs.

23523. Supplement to notice of judgment on foods, No. 19185. Tomato puree.

VIOLATION OF PROBATION: On 9-17-54, Morris April Bros., a partnership, and Leon April, a partner, the defendants in the case reported in the above-mentioned notice of judgment, were brought before the court on the charge of violating the terms of probation which were imposed against them in that case. The charge was based on the allegation that the defendants, on 8-10-54, sold for use in foods which move in interstate commerce a quantity of tomato puree which contained mold.

PLEA: Guilty.

DISPOSITION: 6-20-55. The court fined the partnership \$100 and continued the probation of the defendants.

NUTS

23524. Shelled almonds. (F. D. C. No. 39531. S. No. 40-667 M.)

QUANTITY: 3 110-lb. bags at St. Paul, Minn., in possession of Booth Cold Storage Co.

SHIPPED: 9-23-55, from New York, N. Y.

LIBELED: 8-21-56; Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-5-56. Default—consumption by animals.

23525. Cashew nuts. (F. D. C. No. 39186. S. No. 41-055 M.)

QUANTITY: 24 25-lb. cans at Minneapolis, Minn.

SHIPPED: 6-21-56, from New York, N. Y., by Gill & Duffus, Inc.

LABEL IN PART: "Cashew Kernels Produce of India."

LIBELED: 8-8-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 9-19-56. Default—destruction.

23526. Canned water chestnuts. (F. D. C. No. 39178. S. No. 40-889 M.)

QUANTITY: 796 cases, 6 No. 10 cans each, at Duluth, Minn.

SHIPPED: 6-20-56, from Los Angeles, Calif., by Sam Ward & Co.

LABEL IN PART: (Can) "Water Chestnut Tung Chun Canning Company
* * * Net Weight 5 lbs. Made in Hongkong."

LIBELED: 8-1-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 10-24-56. Consent—claimed by East Asiatic Co., Inc., Los Angeles, Calif. Segregated; 10,309½ lbs. destroyed.

23527. Shelled peanuts. (F. D. C. No. 39532. S. No. 40-666 M.)

QUANTITY: 250 100-lb. bags at St. Paul, Minn., in possession of Pearson Candy Co.

SHIPPED: 2-29-56, from Petersburg, Va.

LIBELED: 8-21-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-29-56. Consent—claimed by Pearson Candy Co. Segregated; 1,999 lbs. destroyed.

23528. Shelled peanuts. (F. D. C. No. 39561. S. No. 55-029 M.)

QUANTITY: 43 120-lb. bags at Evansville, Ind.

SHIPPED: 7-26-56, from Dawson, Ga.

LIBELED: 9-17-56, S. Dist. Ind.

CHARGE: 402 (a) (3)—contained insects and insect-infested nuts while held for sale.

DISPOSITION: 5-15-57. Consent—claimed by Southern Cotton Oil Co., Dawson, Ga. Segregation of the article being unsuccessful, it was destroyed.

23529. Pistachio nuts, sunflower seed, and pumpkin seed. (F. D. C. No. 39502. S. Nos. 62-061/3 M.)

QUANTITY: 48 160-lb. bags of pistachio nuts, 44 100-lb. bags of raw sunflower seed, 5 100-lb. bags of roasted sunflower seed, and 12 126-lb. bags and 1 60-lb. bag of pumpkin seed at Bronx, N. Y.

SHIPPED: 6-27-56 and 8-27-56 (48-bag lot), from Alep, Syria; 2-10-56 (44- and 5-bag lots), from Berkeley, Calif.; and 5-30-55 (12- and 1-bag lots), from Zacatecas, Mexico.

LIBELED: 10-15-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—all articles contained insects, and the sunflower seed contained also insect excreta while held for sale.

DISPOSITION: 11-1-56. Consent—claimed by Agress Nut & Seed Co., Bronx, N. Y. Segregated; 140 lbs. of nuts, 300 lbs. of sunflower seed, and 70 lbs. of pumpkin seed destroyed.

23530. Sunflower seed. (F. D. C. No. 39517. S. No. 52-665 M.)

QUANTITY: 5 100-lb. bags at New York, N. Y.

SHIPPED: 2-10-56, from Berkeley, Calif.

LIBELED: 10-15-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-23-56. Default—destruction.

23531. Shelled walnuts. (F. D. C. No. 39463. S. No. 52-092 M.)

QUANTITY: 72 55-lb. cases at New York, N. Y.

SHIPPED: 3-2-55, from Iran.

LIBELED: 9-20-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insect-infested nuts and rancid nuts while held for sale.

DISPOSITION: 12-10-56. Default—destruction.

23532. Shelled walnuts. (F. D. C. No. 39518. S. No. 41-056 M.)

QUANTITY: 10 55-lb. boxes at Minneapolis, Minn.

SHIPPED: 6-22-56, from New York, N. Y., by Pool Car Association.

LABEL IN PART: (Box) "Net 25 Kilos Shelled Light Amber Meat Quarters Product of Iran."

LIBELED: 8-9-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rancid nuts when shipped.

DISPOSITION: 9-19-56. Default—consumption by animals.

23533. Shelled walnuts. (F. D. C. No. 39518. S. No. 41-057 M.)

QUANTITY: 13 55-lb. boxes at Minneapolis, Minn.

SHIPPED: 5-25-56, from New York, N. Y., by Flamingo Brokerage.

LABEL IN PART: "Walnut PC Product of Iran * * * Amber Pieces."

LIBELED: 8-9-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rancid nuts when shipped.

DISPOSITION: 9-19-56. Default—consumption by animals.

23534. Shelled walnuts. (F. D. C. No. 39582. S. No. 27-393 M.)

QUANTITY: 9 55-lb. cases at Dallas, Tex.

SHIPPED: 3-2-55, from New York, N. Y.

LIBELED: 10-1-56, N. Dist. Tex.

CHARGE: 402 (a) (3)—contained insects, insect webbing, and insect excreta while held for sale.

DISPOSITION: 11-9-56. Default—consumption by animals.

POULTRY

23535. Dressed poultry. (F. D. C. No. 39425. S. No. 27-777 M.)

QUANTITY: 108 crates containing about 5,650 lbs. at Miami, Fla.

SHIPPED: 8-7-56, from Canton, Ga., by Etowah Poultry Co., Inc.

LIBELED: 8-20-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained fecal matter and crop material; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-9-56. Consent—claimed by Etowah Poultry Co., Inc., and reconditioned by cleaning.

23536. Dressed poultry. (F. D. C. No. 39265. S. No. 39-146 M.)

QUANTITY: 181 crates, 50-60 lbs. each., at Miami, Fla.

SHIPPED: 5-25-56, from Canton, Ga., by Etowah Poultry Co., Inc.

LIBELED: On or about 6-6-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained fecal matter and crop material; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-12-56. Consent—claimed by Etowah Poultry Co., Inc. The article was reconditioned, resulting in a loss of about 20 lbs. as unfit.

23537. Frozen dressed poultry. (F. D. C. No. 39148. S. Nos. 23-799 M, 24-501 M.)

QUANTITY: 137 55-lb. crates at Los Angeles, Calif.

SHIPPED: 5-23-56 and 5-25-56, from Canton, Ga., by Etowah Poultry Co., Inc.

LABEL IN PART: (Crate) "Chief Brand."

LIBELED: 6-14-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained decomposed chickens when shipped.

DISPOSITION: 9-13-56. Default—destruction.

23538. Dressed poultry. (F. D. C. No. 39417. S. No. 49-846 M.)

QUANTITY: 18 crates of 1,134 lbs. at Chelsea, Mass.

SHIPPED: 8-8-56, from Yarmouth, Maine, by Glick Bros.

LIBELED: 8-14-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained fecal matter; and 402 (a) (5)—contained diseased birds.

DISPOSITION: 9-5-56. Consent—claimed by Glick Bros. Segregated; 135 lbs. destroyed.

23539. Dressed poultry. (F. D. C. No. 39508. S. No. 37-277 M.)

QUANTITY: 2,450 lbs. in 35 crates at New York, N. Y.

SHIPPED: 9-6-56, from Belfast, Maine, by Maplewood Packing Co.

LIBELED: On or about 10-15-56, S. Dist. N. Y.

CHARGE: 402 (a) (1)—contained, when shipped, an added poisonous or deleterious substance, diethylstilbestrol, which may render the food injurious to health.

DISPOSITION: 12-18-56. Default—destruction.

23540. Dressed poultry. (F. D. C. No. 39512. S. No. 37-278 M.)

QUANTITY: 16 74-lb. crates at New York, N. Y.

SHIPPED: 9-19-56, from Newport, Maine, by Newport Poultry Co.

LIBELED: 10-15-56, S. Dist. N. Y.

CHARGE: 402 (a) (1)—contained, when shipped, an added poisonous or deleterious substance, diethylstilbestrol, which may render the food injurious to health.

DISPOSITION: 12-14-56. Consent—claimed by shipper. The necks and heads of the birds were removed and destroyed, and each bird was labeled to show that it had been treated with diethylstilbestrol.

SPICES, FLAVORS, AND SEASONING MATERIALS

23541. Anise seed. (F. D. C. No. 39500. S. No. 37-299 M.)

QUANTITY: 10 110-lb. bags at New York, N. Y.

SHIPPED: 3-21-55, from Mexico.

LIBELED: On or about 10-15-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-1-56. Default—destruction.

23542. Fennel seed. (F. D. C. No. 39523. S. No. 40-470 M.)

QUANTITY: 2 100-lb. bags at Minneapolis, Minn.

SHIPPED: 10-26-55, from Brooklyn, N. Y., by Morris J. Golombeck, Inc.

LIBELED: 8-15-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 9-27-56. Default—consumption by animals.

23543. Sesame seed. (F. D. C. No. 39423. S. No. 37-291 M.)

QUANTITY: 486 148-lb. bags at New York, N. Y., in possession of Sun Warehouses, Inc.

SHIPPED: 6-24-55, from Nicaragua.

LIBELED: 8-24-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent hairs; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-12-56. Consent—claimed by American Halvah Products, Brooklyn, N. Y. The article was reconditioned by washing, husking, and rebagging.

23544. Sesame seed. (F. D. C. No. 39499. S. Nos. 37-300/1 M.)

QUANTITY: 324 100-lb. bags and 25 150-lb. bags at New York, N. Y.

SHIPPED: 12-30-55 and 4-15-56, from Paris, Tex., and Nicaragua.

LIBELED: 10-11-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-24-56. Consent—claimed by Louis Furth, Inc., New York, N. Y. Segregated; 1,593 lbs. denatured.

23545. Thyme leaves. (F. D. C. No. 39433. S. No. 37-292 M.)

QUANTITY: 122 112-lb. bales at New York, N. Y., in the possession of Sun Warehouses, Inc.

SHIPPED: On or about 1-30-55, from Spain.

LIBELED: 8-29-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent hairs; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-27-56. Consent—claimed by Wm. E. Martin & Sons Co., Inc., Brooklyn, N. Y. Segregated; 1,084 lbs. destroyed.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

23546. Vitamin tablets. (F. D. C. No. 39477. S. No. 47-179 M.)

QUANTITY: 7 25,000-tablet drums and 1 15,000-tablet drum at Philadelphia, Pa.

SHIPPED: 3-28-56, from Long Island City, N. Y.

LIBELED: 9-21-56, E. Dist. Pa.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Tablet * * * Contains * * * Vit. D 1,000 USP U" was false and misleading.

DISPOSITION: 10-18-56. Consent—claimed by Nysco Labs., Inc., Long Island City, N. Y., and relabeled.

*See also Nos. 23462, 23463.

23547. Vitamin tablets. (F. D. C. No. 39315. S. No. 1-935 M.)

QUANTITY: 18 cartons, 12 100-tablet btls. each, at Newport News, Va.

SHIPPED: From Cleveland, Ohio, about 11 years prior to the filing of the libel.

LIBELED: 7-27-56, E. Dist. Va.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin A, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Contents * * * Vitamin A (esters) 750 U. S. P. Units" was false and misleading.

DISPOSITION: 9-5-56. Default—destruction.

23548. Vitamin tablets. (F. D. C. No. 39581. S. No. 41-442 M.)

QUANTITY: 14 bottles, 1,000 tablets each, at Syracuse, N. Y.

SHIPPED: 7-21-55, from Memphis, Tenn.

RESULTS OF INVESTIGATION: Analysis showed that the article contained approximately 80 percent of the declared amount of vitamin B₁.

LIBELED: 9-25-56, N. Dist. N. Y.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Four Tablets Contain * * * Vitamin B₁ * * * 500 USP * * * 1.5 mg." was false and misleading.

DISPOSITION: 11-13-56. Default—destruction.

23549. Multivitamin tablets. (F. D. C. No. 39259. S. Nos. 47-731 M, 52-361 M.)

QUANTITY: 1 drum containing 33,333 tablets at Floral Park, N. Y.

SHIPPED: 4-20-56, from Roselle Park, N. J. This was a return shipment.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 50 percent of the declared amount of vitamin B₁₂.

LIBELED: 6-1-56, E. Dist. N. Y.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "Each tablet contains: * * * Vitamin B₁₂ 2 mcgm." was false and misleading.

DISPOSITION: 9-12-56. Consent—claimed by Intermedico Corp., Floral Park, N. Y., and relabeled.

23550. Multivitamin and mineral tablets. (F. D. C. No. 39262. S. No. 17-138 M.)

QUANTITY: 142 100-tablet btls. at Baltimore, Md.

SHIPPED: 4-26-56, from Freeport, Ill., by Furst-McNess Co.

LABEL IN PART: (Btl.) "McNess Multi-Vitamin and Mineral Tablets 100 High Potency Tablets."

RESULTS OF INVESTIGATION: Analysis showed that the article contained 60 percent of the declared amount of vitamin C.

LIBELED: On or about 6-6-56, Dist. Md.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin C, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "Three Tablets contain * * * Vitamin C 30 milligrams" was false and misleading.

DISPOSITION: 6-26-56. Default—destruction.

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Pool Car Association:		Yohay, Joshua.	
shelled walnuts-----	23532	Villamarin Hnos SA:	
Port Norris Oyster Co., Inc.:		Spanish olives-----	23511
oysters -----	23492	Ward, Sam, & Co.:	
Pritchett, J. R.:		canned water chestnuts-----	23526
flour -----	23461	Webster-Thomas Co.:	
Pruitt, H. A., Produce Co., Inc.:		canned applesauce-----	23499
butter -----	23471	Wechsler, Abraham:	
Quality Egg Co.:		coffee -----	23451
frozen eggs-----	23475	Wechsler, Ph., & Son, Inc.:	
Red L New York Foods Corp.:		coffee -----	23451
frozen fried shrimp-----	23498	Williams, B. B.:	
Reeves, B. M., Co., Inc.:		butter -----	23471
stuffed green olives-----	23510		

	N. J. No.		N. J. No.
Worley, F. L.:		Wright, J. N., Jr.:	
enriched flour-----	23462	canned tomatoes-----	23518
Worley, Frank L., Flour Mill.		Wright Brothers:	
See Worley, F. L.		canned tomatoes-----	23517
Wright, Frank:		Yohay, Joshua:	
canned tomatoes-----	23517	ice cream cones-----	23458

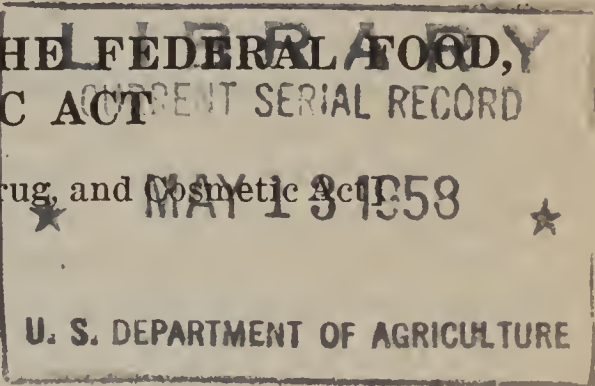
U. S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23551-23650

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which default or consent decrees of condemnation were entered and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., April 14, 1958.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23551-23650

Adulteration, Section 402 (a) (1), the article contained an added poisonous substance which may have rendered it injurious to health; Section 402 (a) (2), the article, in one case, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in six other cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403 (g) 2), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and the label failed to bear the common name of the optional ingredient contained therein; Section 403 (h) (1), the article purported to be and was represented as a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard; Section 403 (i) (2), the article was not subject to the provisions of Section 403 (g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient.

CEREALS AND CEREAL PRODUCTS*

FLOUR

23551. Flour. (F. D. C. No. 39638. S. No. 58-944 M.)

QUANTITY: 95 100-lb. bags at Trenton, N. J., in possession of Western Flour Co.

SHIPPED: 9-14-56, from Lake City, Minn.

LIBELED: 10-24-56, Dist. N. J.

CHARGE: 402 (a) (3)—Contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

*See also Nos. 23617, 23628.

DISPOSITION: 11-27-56. Consent—claimed by Western Flour Co. Segregated; 28 bags delivered to a foundry for industrial use.

23552. Flour. (F. D. C. No. 39613. S. No. 55-707 M.)

QUANTITY: 8 100-lb. bags at Cleveland, Ohio, in possession of Eagle Wholesale Grocery Co.

SHIPPED: Between 8-15-56 and 9-26-56, from Minneapolis, Minn.

LIBELED: 10-29-56, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-11-56. Default—destruction.

23553. Flour. (F. D. C. No. 39600. S. No. 57-991 M.)

QUANTITY: 59 100-lb. bags at North Kansas City, Mo., in possession of Hershey Wholesale Grocery Co.

SHIPPED: 9-15-56, from Newton, Kans.

LIBELED: On or about 10-19-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-8-56. Default—consumption by animals.

23554. Flour. (F. D. C. No. 39304. S. No. 39-611 M.)

QUANTITY: 282 10-lb. bags at Rockingham, N. C.

SHIPPED: 6-6-56, from Richmond, Va., by Dixie-Portland Flour Mills.

LABEL IN PART: (Bag) "Bleached Enriched Self-Rising Flour."

LIBELED: On or about 7-19-56, M. Dist. N. C.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-4-56. Default—consumption by animals.

23555. Flour. (F. D. C. No. 39272. S. Nos. 48-820/1 M.)

QUANTITY: 294 50-lb. bags at Sault Ste. Marie, Mich., in possession of Northland Associate Grocers, Inc.

SHIPPED: 11-2-55 and 3-2-56, from Minneapolis, Minn.

LIBELED: 6-11-56, W. Dist. Mich.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-16-56. Consent—claimed by Northland Associate Grocers, Inc. Segregated; 207 bags denatured for use as animal feed.

23556. Flour. (F. D. C. No. 39533. S. Nos. 38-395 M, 38-397 M, 38-457 M.)

QUANTITY: 185 bags, each containing 25 lbs., and 84 bags, each containing 5 or 10 lbs., at Sparta, Ill., in possession of Burns Wholesale Grocery Co.

SHIPPED: Between 4-26-56 and 4-30-56, from Lincoln, Nebr., and Atchison, Kans.

LIBELED: 8-20-56, E. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-16-56. Default—destruction.

23557. Buckwheat flour. (F. D. C. No. 39541. S. No. 33-483 M.)

QUANTITY: 273 100-lb. bags at Atchison, Kans., in possession of Blair Milling & Elevator Co., Inc.

SHIPPED: 3-16-56, from Cohocton, N. Y.

LIBELED: 8-31-56, Dist. Kans.

CHARGE: 402 (a) (3)—contained rodent excreta and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-26-56. Consent—claimed by Blair Milling & Elevator Co., Inc. Converted to animal feed.

23558. Flour. (F. D. C. No. 39170. S. No. 58-475 M.)

QUANTITY: 780 100-lb. bags at Denver, Colo.

SHIPPED: 6-13-56, from Cheney, Wash., by National Biscuit Co. (Cheney Mills).

LABEL IN PART: "Certified."

LIBELED: 7-24-56, Dist. Colo.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 10-24-56. Consent—claimed by National Biscuit Co., New York, N. Y., and denatured for use as animal feed.

23559. Flour. (F. D. C. No. 39576. S. Nos. 29-081/2 M.)

QUANTITY: 59 100-lb. bags at Montague, Calif.

SHIPPED: 7-17-56, from Portland, Oreg., by Crown Mills.

LABEL IN PART: "Vim High Gluten Montana Spring Wheat Flour Bleached—Bromated" and "Crown 100% Whole Wheat Flour Wheat Germ Retained."

LIBELED: 10-1-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine when shipped.

DISPOSITION: 1-29-57. Default—consumption by animals.

23560. Flour. (F. D. C. No. 39653. S. No. 57-102 M.)

QUANTITY: 60 100-lb. bags at Orlando, Fla.

SHIPPED: 9-5-56, from Springfield, Ill.

LIBELED: 11-1-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-28-56. Default—consumption by animals.

23561. Flour. (F. D. C. No. 39654. S. Nos. 57-103/6 M.)

QUANTITY: 162 100-lb. bags at Sanford, Fla.

SHIPPED: 8-9-56 and 8-20-56, from Springfield, Ill.

LIBELED: 11-1-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-28-56. Default—destruction.

23562. Flour. (F. D. C. No. 39635. S. No. 57-080 M.)

QUANTITY: 11 100-lb. bags at Orlando, Fla.

SHIPPED: 8-30-56, from Memphis, Tenn.

LIBELED: On or about 10-24-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-28-56. Default—consumption by animals.

23563. Flour. (F. D. C. No. 39629. S. No. 57-475 M.)

QUANTITY: 50 50-lb. bags at Canton, Ga.

SHIPPED: 8-15-56, from Chattanooga, Tenn.

LIBELED: 10-12-56, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-19-56. Default—destruction.

23564. Flour. (F. D. C. No. 39496. S. No. 39-162 M.)

QUANTITY: 10 100-lb. bags at Orlando, Fla.

SHIPPED: 8-14-56, from Springfield, Ill.

LIBELED: On or about 10-8-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-28-56. Default—consumption by animals.

23565. Flour. (F. D. C. No. 39481. S. No. 56-972 M.)

QUANTITY: 26 50-lb. bags at Augusta, Ga.

SHIPPED: 2-21-56, from Louisville, Ky.

LIBELED: 9-21-56, S. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-16-56. Default—destruction.

23566. Flour. (F. D. C. No. 39458. S. No. 48-114 M.)

QUANTITY: 54 100-lb. bags at Paterson, N. J.

SHIPPED: 6-14-56, from Lake City, Minn.

LIBELED: 9-11-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained insects and insect parts while held for sale.

DISPOSITION: 10-2-56. Default—destruction.

23567. Flour. (F. D. C. No. 39509. S. Nos. 39-163/6 M.)

QUANTITY: 73 100-lb. bags at Sanford, Fla.

SHIPPED: 8-7-56 and 8-16-56, from Alton and Springfield, Ill.

LIBELED: On or about 10-17-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-3-57. Default—destruction.

23568. Flour. (F. D. C. No. 39537. S. Nos. 57-163/5 M, 57-167/8 M.)

QUANTITY: 224 100-lb. bags at Thomasville, Ga.

SHIPPED: Between 4-18-56 and 7-17-56, from Memphis, Tenn.

LIBELED: 8-22-56, M. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-19-56. Default—used as animal feed.

23569. Flour. (F. D. C. No. 39432. S. No. 39-317 M.)

QUANTITY: 110 25-lb. bags at Atlanta, Ga.

SHIPPED: 2-5-56 and 4-4-56, from Louisville, Ky.

LIBELED: 8-23-56, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-11-56. Default—destruction.

MACARONI AND NOODLE PRODUCTS

23570. Macaroni products. (F. D. C. No. 38628. S. Nos. 17-846/7 M, 35-539 M, 36-222 M, 40-004 M.)

INFORMATION FILED: 9-25-56, N. Dist. Ill., against Hershel California Fruit Products Co., a corporation, Chicago, Ill., and Martin L. Morici, formerly president of Chicago Macaroni Co., Chicago, Ill.

It was alleged that Hershel California Fruit Products Co., as the surviving corporation under a plan of merger effected on or about 2-28-56 with Chicago Macaroni Co., was chargeable with, and liable for, the penalties attaching to the acts of the Chicago Macaroni Co. in causing the introduction into interstate commerce of adulterated macaroni products as described below.

SHIPPED: Between 9-13-55 and 10-14-55, from Illinois to Indiana, Michigan, and Wisconsin.

LABEL IN PART: (Pkg.) "Cyrilla Brand Italian Style Stars [or "Acini-Pepe"] Net Weight One Pound Manufactured By Chicago Macaroni Co. Chicago, Ill." or "Cyrilla Brand Net Weight One Pound Italian Style Elbow Manufactured By Contadina Products Co. Chicago, New York, San Jose, Calif."; (case) "Contadina Brand Elbow-Mac. 20-Lbs. Net."

CHARGE: 402 (a) (3)—contained insect fragments and rodent hairs and prepared and packed under insanitary conditions.

PLEA: Nolo contendere by corporation and guilty by individual.

DISPOSITION: 11-30-56. Fine of \$250 against corporation and \$1,000, plus costs, against individual.

23571. Egg noodles and macaroni products. (F. D. C. No. 39336. S. Nos. 40-634 M, 49-223/7 M.)

INFORMATION FILED: 9-6-56, N. Dist. Ill., against G. D'Amico Macaroni Co., a corporation, Steger, Ill., and Carl D'Amico, president.

SHIPPED: 3-23-56 and 4-3-56, from Illinois to Minnesota and Indiana.

LABEL IN PART: (Case) "Aslesen's Banquet Table Egg Noodles Net Weight 10 lbs. Distributed By Aslesen Co., Minneapolis, Minn."; (pkg.) "Golden Crest Novelty Macaroni Net Wt. 8 oz. G. D'Amico Macaroni Co. Steger, Ill.," "One Pound Net Wt. Mamma Mia Egg Farfalle [or "Net Weight 16 oz. Kluski Golden Crest Pure Egg Noodles," "One Pound Net Wt. Mamma Mia Rosetti," or "One Pound Net Wt. Mamma Mia Mostaccioli"] Manufactured by G. D'Amico Macaroni Co., Steger, Illinois."

CHARGE: 402 (a) (3)—contained insect parts and rodent hairs; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-19-56. Fine of \$250 against each defendant, plus costs.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

23572. Oats. (F. D. C. No. 39545. S. Nos. 9-785 M, 26-367 M.)

QUANTITY: 78,890 lbs. at Minneapolis, Minn.

SHIPPED: 7-31-56, from Sawyer, N. Dak., by Osborne-McMillan Elevator Co.

LIBELED: 8-24-56, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on oats has been prescribed by regulations.

DISPOSITION: 9-11-56. Consent—claimed by Osborne-McMillan Elevator Co. Segregated; 25,800 lbs. destroyed and remainder to be used for animal feed.

23573. Popcorn. (F. D. C. No. 39641. S. No. 59-466 M.)

QUANTITY: 84 100-lb. bags at La Salle, Ill.

SHIPPED: 10-1-56, from Norwalk, Ohio, by Valentine Tidswell & Son.

LIBELED: 10-22-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent excreta and moldy insect- and rodent-damaged kernels when shipped.

DISPOSITION: 12-3-56. Default—destruction.

23574. Popcorn. (F. D. C. No. 39609. S. No. 54-974 M.)

QUANTITY: 30 100-lb. bags at Dayton, Ohio.

SHIPPED: 9-6-56, from Dixon, Ill.

LIBELED: 10-29-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-5-56. Default—consumption by animals.

23575. Rice. (F. D. C. No. 39589. S. Nos. 42-883 M, 57-982 M.)

QUANTITY: 44 100-lb. bags at Carlisle, Ark.

SHIPPED: 9-20-56, from North Kansas City, Mo. This was a return shipment.

LABEL IN PART: (Bag) "Sonny Boy Rice 100 Lbs. Net."

LIBELED: 10-5-56, E. Dist. Ark.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 11-20-56. Default—consumption by animals.

23576. Wheat. (F. D. C. No. 39543. S. No. 56-642 M.)

QUANTITY: 100,000 lbs. at Duluth, Minn.

SHIPPED: 8-3-56, from Forman, N. Dak., by E. M. Levi Elevator.

LIBELED: 8-23-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 9-11-56. Consent—claimed by E. M. Levi Elevator. Segregated; 7,430 lbs. converted to animal feed.

*See also No. 23628.

23577. Wheat. (F. D. C. No. 39530. S. No. 41-302 M.)

QUANTITY: 47,400 lbs. at Minneapolis, Minn.

SHIPPED: 6-21-56, from Larimore, N. Dak., by Elk Valley Farms Elevator Co.

LIBELED: 8-18-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 8-24-56. Consent—claimed by Elk Valley Farms Elevator Co. The article was mixed with frost-damaged wheat for use other than for human consumption.

23578. Wheat. (F. D. C. No. 39539. S. No. 40-860 M.)

QUANTITY: 94,400 lbs. at Minneapolis, Minn.

SHIPPED: 7-19-56, from Hazelton, N. Dak., by Occident Elevator Co.

LIBELED: 8-22-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent and bird excreta when shipped.

DISPOSITION: 9-17-56. Consent—claimed by Occident Elevators, Div. Russell-Miller Milling Co., Minneapolis, Minn. The article was denatured for use as animal feed.

23579. Wheat. (F. D. C. No. 39415. S. No. 49-415 M.)

QUANTITY: 2,000 bushels at Chicago, Ill.

SHIPPED: 7-18-56, from Wanatah, Ind., by Wanatah Mercantile Co.

LIBELED: 8-10-56, N. Dist. Ill.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 8-14-56. Consent—claimed by Wanatah Mercantile Co. and destroyed.

23580. Wheat. (F. D. C. No. 39588. S. No. 56-384 M.)

QUANTITY: 112,800 lbs. at Minneapolis, Minn.

SHIPPED: 9-10-56, from Belt, Mont., by Farmers Union Grain Terminal Association.

LIBELED: 10-4-56, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 10-25-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 16,620 lbs. destroyed.

23581. Wheat. (F. D. C. No. 39584. S. No. 56-655 M.)

QUANTITY: 108,230 lbs. at Minneapolis, Minn.

SHIPPED: 9-3-56, from Mohall, N. Dak., by Farmers Union Grain Terminal Association.

LIBELED: 10-1-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 10-15-56. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 11,510 lbs. removed for use as animal feed.

23582. Wheat. (F. D. C. No. 39524. S. No. 30-851 M.)

QUANTITY: 500 bushels at Lima, Ohio.

SHIPPED: 7-17-56, from Monroeville, Ind., by Monroeville Cooperative Equity Exchange.

LIBELED: 8-21-56, N. Dist. Ohio.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 2-4-57. Consent—destruction.

23583. Wheat. (F. D. C. No. 39083. S. No. 38-157 M.)

QUANTITY: 110,000 lbs. at St. Louis, Mo.

SHIPPED: 3-2-56, from Burlington, Iowa, by Wayne Bros.

LIBELED: 3-12-56, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 3-5-57. Consent—claimed by Eureka Mills, St. Louis, Mo., and denatured for use as animal feed.

23584. Wheat. (F. D. C. No. 39521. S. No. 56-641 M.)

QUANTITY: 121,200 lbs. at Minneapolis, Minn.

SHIPPED: 7-26-56, from Eureka, S. Dak., by Eureka Equity Exchange.

LIBELED: 8-11-56, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 8-16-56. Consent—claimed by Eureka Equity Exchange. The article was reprocessed for use as seed wheat.

23585. Wheat. (F. D. C. No. 39620. S. Nos. 41-573/4 M.)

QUANTITY: 1,425 bushels at Buffalo, N. Y.

SHIPPED: 10-15-56, from Wooster, Ohio, by Ohio Equity Exchange.

LIBELED: 11-5-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 11-8-56. Consent—claimed by Alva S. McCord, t/a Polk Feed & Supply, Polk, Ohio, and denatured for use as animal feed.

23586. Wheat. (F. D. C. No. 39622. S. No. 58-104 M.)

QUANTITY: 125,100 lbs. at Kansas City, Mo.

SHIPPED: 10-29-56, from Wakefield, Kans., by Wakefield Farmers Coop. Association.

LIBELED: 11-5-56, W. Dist. Mo.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 11-13-56. Consent—claimed by Farmers Union Jobbing Association, Kansas City, Mo. Segregated; 12,800 lbs. destroyed.

23587. Wheat. (F. D. C. No. 39605. S. No. 42-107 M.)

QUANTITY: 1,500 bushels at Buffalo, N. Y.

SHIPPED: 10-15-56, from Mount Victory, Ohio, by Eshelman Grain Co.

LIBELED: 10-24-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 10-29-56. Consent—claimed by Eshelman Grain Co. and denatured for use as animal feed.

23588. Barley grits. (F. D. C. No. 39548. S. No. 41-432 M.)

QUANTITY: 38 100-lb. bags at Williamson, N. Y.

SHIPPED: 5-18-56, from Chicago, Ill., by H. C. Knoke & Co.

LABEL IN PART: "Star Barley Grits."

LIBELED: 8-24-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained objectionable odor and taste when shipped.

DISPOSITION: 9-28-56. Default—destruction.

23589. Corn grits. (F. D. C. No. 39547. S. No. 39-324 M.)

QUANTITY: 31 sacks, 10 5-lb. bags each, at Columbus, Ga., in possession of Sol Loeb Co., Inc.

SHIPPED: 6-27-56, from St. Joseph, Mo.

LIBELED: 8-24-56, M. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 11-1-56. Default—destruction.

23590. Pea meal. (F. D. C. No. 39505. S. No. 40-062 M.)

QUANTITY: 400 100-lb. bags at Chicago, Ill.

SHIPPED: February 1956, from Garfield, Wash., by Allen V. Smith, Inc.

LIBELED: 10-4-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 11-15-56. Default—destruction.

23591. Baking mixes. (F. D. C. No. 39469. S. Nos. 33-417/22 M.)

QUANTITY: 50 cartons, 24 1-lb. boxes each, of pineapple upside down cake mix; 10 bales, 6 6-lb. packages each, of batter mix; 4 cartons, 12 4-lb. bags each, of buttermilk pancake mix; 7 bales, 6 6-lb. bags each, of coffeecake mix; 5 bales, 6 5-lb. bags each, of cornbread mix; and 5 bales, 6 5-lb. bags each, of bran muffin mix, at Omaha, Nebr.

SHIPPED: On unknown dates, from Chicago and Springfield, Ill.

LIBELED: 9-20-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-19-56. Default—destruction.

23592. Cake and doughnut mixes. (F. D. C. No. 39414. S. Nos. 46-819/20 M.)

QUANTITY: 89 lbs. of devil cake base and 94 lbs. doughnut sugar mixture at Vineland, N. J.

SHIPPED: 7-11-56, from Philadelphia, Pa., by Phil Schaefer & Sons, Inc.

LABEL IN PART: (Drum) "Schaefer's Imperial Brand Devil Cake Base"; (bag) "Schaefer's Donut Sugar Mixture."

LIBELED: On or about 8-16-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 10-16-56. Default—destruction.

23593. Doughnut mix. (F. D. C. No. 39610. S. No. 34-187 M.)

QUANTITY: 4 100-lb. bags at Stockton, Kans.

SHIPPED: 9-19-56, from Omaha, Nebr., by T. F. Naughtin Co.

LABEL IN PART: (Bag) "Nacoma Brand Yeast Raised Doughnut Mix."

LIBELED: 11-1-56, Dist. Kans.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 12-4-56. Default—destruction.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS

COCOA

23594. Cocoa powder (2 seizure actions). (F. D. C. Nos. 39270, 39271. S. No. 29-536 M.)

QUANTITY: 235 50-lb. bags at Brooklyn, N. Y.

SHIPPED: 9-28-55, from Dorchester, Mass.

RESULTS OF INVESTIGATION: The article was shipped in interstate commerce in the form of expeller cakes for animal feed use. Upon its arrival at Brooklyn, N. Y., the consignee, Ralph Newton, ordered that the article be ground, packed into bags, and labeled "50-1-50 Pure Cocoa Pow. * * * L 8323."

An examination revealed that the article was cocoa powder containing a large amount of shell.

LIBELED: 6-7-56, E. Dist. N. Y.

CHARGE: 402 (b) (2)—cocoa shell had been substituted in part for cocoa while held for sale; and 403 (g) (1)—the article failed to conform to the definition and standard of identity for cocoa since it contained more cocoa shell than is present in cocoa.

DISPOSITION: 6-29-56. Default—portion delivered to Food and Drug Administration and remainder destroyed.

23595. Cocoa beans. (F. D. C. No. 39507. S. No. 61-902 M.)

QUANTITY: 33 bags at Brooklyn, N. Y.

SHIPPED: On or about 8-20-56, from Brazil.

LIBELED: 10-5-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects and moldy beans while held for sale.

DISPOSITION: 12-5-56. Consent—claimed by Transcontinental Commodities, Inc., New York, N. Y., and destroyed.

CONFECTIONERY

23596. Candy. (F. D. C. No. 39328. S. Nos. 2-121 M, 2-321 M, 38-882 M.)

INFORMATION FILED: 8-31-56, E. Dist. N. C., against John H. Wellons, t/a Wellons Candy Co.

SHIPPED: Between 1-24-56 and 3-13-56, from North Carolina to Virginia, Florida, and West Virginia.

LABEL IN PART: "Rainbow Bar [or "Marshmallow Bar," "Big Man Stick," "Cabbage Bar," "Coconut Bar," "Cornbread Candy Bar," "Hunnie Bar," "Tic Tic Tic Nut Roll," "Jazz Bar" or "Two-Tone"] Wellons Candy Company, Dunn, N. C. [or "Supreme Candy Co., Dunn, N. C.]" and "Big Joe [or "Cream Cocoanut" or "Log Cabin"] Supreme Candy Co., Dunn, N. C."

CHARGE: 402 (a) (3)—contained insects, insect fragments, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 3-28-57. Fine, \$600.

23597. Candy. (F. D. C. No. 38606. S. Nos. 33-841 M, 33-844 M, 42-835 M.)

INFORMATION FILED: 6-11-56, E. Dist. Okla., against Walter J. Shipp, t/a Durant Candy Co., Durant, Okla.

SHIPPED: Between 1-12-56 and 1-19-56, from Oklahoma to Kansas and Arkansas.

LABEL IN PART: (Pkg.) "Shipp's Peanut Pattie"; (box) "Shipp's Fresh Candies 80 Chicken Leg"; (pkg.) "Shipp's Chicken Leg."

CHARGE: 402 (a) (3)—contained rodent hair fragments, insects, insect fragments, rodent excreta, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 1-14-57. Fine, \$375.

23598. Malted milk balls. (F. D. C. No. 39529. S. No. 50-901 M.)

QUANTITY: 53 cases, 12 240-count boxes each, at Los Angeles, Calif.

SHIPPED: 11-25-54, from Philadelphia, Pa.

LIBELED: 8-21-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-11-56. Default—destruction.

SUGAR

23599. Sugar. (F. D. C. No. 39143. S. No. 56-061 M.)

QUANTITY: 86,426 lbs. in 1,496 bags at Detroit, Mich.

SHIPPED: 5-11-56, from South Philadelphia, Pa., by Olavarria & Co., Inc.

LABEL IN PART: (Pkg.) "Refined Cane Sugar (Refinado) San Ramon Manufactured by CIA. Azucarera Mariel, Mariel, Cuba Product of Cuba."

LIBELED: 6-8-56, E. Dist. Mich.

CHARGE: 402 (a) (3)—contained dirt when shipped.

DISPOSITION: 9-17-56. Consent—claimed by Olavarria & Co., Inc. The article was reconditioned by re-refining.

EGGS

23600. Frozen eggs. (F. D. C. No. 39599. S. No. 42-021 M.)

QUANTITY: 170 30-lb. cans at Syracuse, N. Y.

SHIPPED: 9-10-56, from Sioux City, Iowa, by Tri-State Produce.

LIBELED: 10-19-56, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 11-15-56. Consent—claimed by Land O'Lakes Creameries, Inc., Syracuse, N. Y. Segregated; 30 cans denatured.

23601. Frozen eggs. (F. D. C. No. 39639. S. No. 50-345 M.)

QUANTITY: 381 cans at Boston, Mass.

SHIPPED: 9-17-56, from Walpole, N. H., by H. P. Hood & Sons, Inc.

LABEL IN PART: (Can) "Hood Whole Frozen Eggs 30 Lbs. Net."

LIBELED: 10-19-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 11-28-56. Consent—claimed by H. P. Hood & Sons, Inc. Segregated; 181 cans denatured.

FISH AND SHELLFISH

23602. Frozen dressed ciscoes. (F. D. C. No. 39553. S. No. 41-527 M.)

QUANTITY: 158 100-lb. boxes at Pittsburgh, Pa.

SHIPPED: 8-6-56, from Detroit, Mich., by J. Kozloff Fish Distributors, Inc.

LABEL IN PART: "Product of Canada Last Mountain Lake, Sask. Shipper: Sask. Fish Marketing Service Prince Albert, Sask."

LIBELED: 8-30-56, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 9-19-56. Default—destruction.

23603. Frozen cod fillets. (F. D. C. No. 39484. S. No. 49-946 M.)

QUANTITY: 18 cartons, 5 10-lb. packages each, at Roxbury, Mass.

SHIPPED: The fillets were from fish caught on or about 9-4-56 in the Atlantic Ocean by the fishing vessels "Wm. J. O'Brien" and "F. V. Phantom."

LABEL IN PART: (Insert in pkg.) "Gold Bond Cod Fillets * * * R. O'Brien & Co., Inc. Boston, Mass."

LIBELED: 9-24-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 12-3-56. Default—consumption by animals.

23604. Frozen cusk fillets. (F. D. C. No. 39446. S. No. 50-262 M.)

QUANTITY: 16 cartons, 5 10-lb. boxes each, at Boston, Mass.

SHIPPED: The fillets were from fish caught in the Gulf of Maine by the fishing vessel "Ocean Clipper" and unloaded at Boston, Mass., on 8-8-56.

LIBELED: 8-27-56, Dist. Mass.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 10-8-56. Default—consumption by animals.

23605. Frozen haddock fillets. (F. D. C. No. 39319. S. Nos. 50-201/2 M.)

QUANTITY: 138 10-lb. cartons at Boston, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessel "M. C. Ballard, Inc." in the Atlantic Ocean and unloaded at Boston, Mass., on 7-17-56.

LABEL IN PART: (Wrapper) "Diamond Brand Frosted Haddock Fillets To Be Weighed At Time of Sale Dist. By Diamond Fisheries Inc., Boston, Mass."

LIBELED: 7-31-56, Dist. Mass.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 12-10-56. Default—consumption by animals.

23606. Frozen ocean perch fillets. (F. D. C. No. 39439. S. No. 50-004 M.)

QUANTITY: 49 cases, 5 10-lb. cartons each, and 1 case containing 2 10-lb. cartons, at Gloucester, Mass.

SHIPPED: The fillets were from fish caught in the Atlantic Ocean by the fishing vessel "Edith L. Boudreau" and unloaded at Gloucester, Mass., on 8-3-56.

LABEL IN PART: (Wrapper) "Seven Seas Brand Quick Frozen Ocean Perch Fillets."

LIBELED: 8-24-56, Dist. Mass.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 9-8-56. Default—consumption by animals.

23607. Frozen ocean perch fillets. (F. D. C. No. 39526. S. No. 38-409 M.)

QUANTITY: 25 cases, 12 1-lb. pkgs. each, at St. Louis, Mo.

SHIPPED: 7-30-56, from Gloucester, Mass., by Gloucester Ice & Cold Storage Co.

LABEL IN PART: (Pkg.) "Frozen Fresh IGA Ocean Perch Fillets * * * Packed for Independent Grocers Alliance Distributing Co., Chicago, Illinois."

LIBELED: 8-17-56, E. Dist. Mo.

CHARGE: 402(a) (3)—contained decomposed fish when shipped.

DISPOSITION: 9-14-56. Default—sold for use other than for human consumption.

23608. Boneless pollock. (F. D. C. No. 39557. S. No. 26-923 M.)

QUANTITY: 11 30-lb. boxes at Houston, Tex.

SHIPPED: 8-8-56, from Chelsea, Mass., by Collins-Lee Co.

LABEL IN PART: "Product of Canada Boneless Pollock."

LIBELED: 9-11-56, S. Dist. Tex.

CHARGE: 402(a) (3)—contained flies, maggots, insect parts, and rodent hairs; and 402(a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-29-56. Default—destruction.

23609. Frozen dressed tullibees. (F. D. C. No. 39549. S. No. 42-008 M.)

QUANTITY: 421 75-lb. boxes at Buffalo, N. Y.

SHIPPED: 8-10-56, from Duluth, Minn., by Pick-Shapiro Fisheries.

LIBELED: 8-27-56, W. Dist. N. Y.

CHARGE: 402(a) (3)—contained cysts when shipped.

DISPOSITION: 2-15-57. Default—destruction.

23610. Dressed whitefish and frozen tullibees. (F. D. C. No. 39473. S. Nos. 4-870 M, 60-162/4 M.)

QUANTITY: 43 75-lb. boxes of frozen tullibees and 15 50-lb. boxes of dressed whitefish at Chicago, Ill.

SHIPPED: Between 7-9-56 and 9-1-56, (frozen tullibees) from Duluth, Minn., by Northern Cold Storage & Warehouse Co. and (dressed whitefish) from Winnipeg, Canada, by Canadian Fish Producers.

LABEL IN PART: (Portion of boxes) "Fresh Dsd. Whitefish Black Bear Island Lake Product of Canada."

LIBELED: 9-19-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—both articles contained parasitic cysts and a portion of the tullibees consisted of decomposed fish when shipped.

DISPOSITION: 11-27-56. Default—destruction.

23611. Frozen rock lobster tails. (F. D. C. No. 39630. S. Nos. 47-870/3 M.)

QUANTITY: 101 cartons at New York, N. Y.

SHIPPED: 9-21-56, from Detroit, Mich., by Continental Seafoods, Inc.

LABEL IN PART: "Frozen Rock Lobster Tails Net Wt. 10 Lbs. * * * Pan Am New York Lobsters Product of Brazil."

LIBELED: 10-22-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed rock lobster tails when shipped.

DISPOSITION: 11-28-56. Default—destruction.

23612. Oysters. (F. D. C. No. 39596. S. No. 45-447 M.)

QUANTITY: 2,282 cans at Indianapolis, Ind.

SHIPPED: 10-12-56, from Weems, Va., by W. F. Morgan & Sons.

LABEL IN PART: (Can) "Oysters Standards 287 Va. 92 * * * Contents 12 Fl. Oz. Famous Booth Foods Fresh Atlantic Coast Oysters Dist. By Booth Fisheries Corp. Chicago, Ill."

LIBELED: On or about 10-17-56, S. Dist. Ind.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 10-17-56. Consent—destruction.

23613. Oysters. (F. D. C. No. 39595. S. No. 45-446 M.)

QUANTITY: 618 cans at Zanesville, Ohio.

SHIPPED: 10-12-56, from Weems, Va., by W. F. Morgan & Sons.

LABEL IN PART: (Can) "Oysters Standards 287 Va. 92 * * * Contents 12 Fl. Oz. Famous Booth Foods Fresh Atlantic Coast Oysters Dist. By Booth Fisheries Corp. Chicago, Ill."

LIBELED: 10-16-56, S. Dist. Ohio.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 10-17-56. Consent—destruction.

23614. Oysters. (F. D. C. No. 39597. S. Nos. 45-444/5 M.)

QUANTITY: 269 cans at Gallipolis, Ohio.

SHIPPED: 10-12-56, from Weems, Va., by W. F. Morgan & Sons.

LABEL IN PART: (Can) "Oysters Standards (or Selects) 287 Va. 92 * * * Contents One Pint Famous Booth Foods Fresh Atlantic Coast Oysters Dist. By Booth Fisheries Corp. Chicago, Ill."

LIBELED: 10-16-56, S. Dist. Ohio.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 10-17-56. Consent—destruction.

23615. Oysters. (F. D. C. No. 39593. S. No. 44-976 M.)

QUANTITY: 1 13-gal. barrel at Kilgore, Tex.

SHIPPED: 10-11-56, from Baltimore, Md., by McNaney Oyster Co.

LABEL IN PART: (Barrel) "McNaney's Superior Raw Oysters."

LIBELED: 10-15-56, E. Dist. Tex.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-11-57. Default—destruction.

23616. Canned oysters. (F. D. C. No. 39538. S. No. 27-225 M.)

QUANTITY: 50 cases, 24 8-oz. cans each, at Bessemer, Ala.

SHIPPED: Between 5-6-56 and 6-18-56, from Biloxi, Miss., by Weems Bros. Seafood Co.

LABEL IN PART: "Gulfview Brand Oysters."

LIBELED: 8-22-56, N. Dist. Ala.

CHARGE: 402 (a) (3)—contained decomposed oysters when shipped.

DISPOSITION: 9-24-56. Default—destruction.

23617. Frozen crabcakes and frozen waffles. (F. D. C. No. 38625. S. Nos. 17-632 M, 21-628 M.)

INFORMATION FILED: 7-13-56, Dist. N. J., against Home Style Foods, Inc., a corporation, Pitman, N. J., and Herman M. Elgart, president.

SHIPPED: Between 10-19-55 and 11-18-55, from New Jersey to Maryland and Pennsylvania.

LABEL IN PART: (Pkg.) "Home Style 4 Deviled Crab Cakes Net Weight, 6 Ounces" and "Home Style 6 Waffles (Quick Frozen) Net Weight 5 Ozs."

CHARGE: 402 (a) (3)—contained insect parts and rodent hair fragments; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 1-25-57. Corporation—\$2,000 fine. Individual—sentence suspended and placed on probation for 5 years, with specific conditions that within 30 days the corporation's fine be paid and that the plant be cleaned.

FRUITS AND VEGETABLES

CANNED FRUIT

23618. Canned boysenberries. (F. D. C. No. 39616. S. No. 40-698 M.)

QUANTITY: 23 cases, 24 cans each, at Little Falls, Minn.

SHIPPED: December 1954, from Van Buren, Ark.

LIBELED: 10-31-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 12-27-56. Default—destruction.

DRIED FRUIT

23619. Prunes. (F. D. C. No. 39594. S. No. 58-006 M.)

QUANTITY: 33 cases, 12 2-lb. bags each, at Kansas City, Mo.

SHIPPED: 11-18-55, from San Francisco, Calif.

LIBELED: 10-18-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained moldy and decomposed prunes while held for sale.

DISPOSITION: 1-9-57. Default—destruction.

23620. Raisins. (F. D. C. No. 39648. S. No. 60-492 M.)

QUANTITY: 206 30-lb. cartons at South Boston, Mass.

SHIPPED: 5-10-56, from Fresno, Calif.

LIBELED: 10-24-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-7-57. Default—destruction.

23621. Raisins. (F. D. C. No. 39601. S. No. 33-557 M.)

QUANTITY: 127 30-lb. boxes at Kansas City, Mo.

SHIPPED: 4-8-56, from Fresno, Calif.

LIBELED: On or about 10-22-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-21-56. Default—consumption by animals.

23622. Raisins. (F. D. C. No. 39618. S. No. 35-219 M.)

QUANTITY: 12 30-lb. cartons at Bristol, Va.

SHIPPED: 12-10-54 and 10-7-55, from Fresno, Calif.

LIBELED: On or about 11-9-56, W. Dist. Va.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-6-56. Default—destruction.

FRESH FRUIT

23623. Currants. (F. D. C. No. 39602. S. No. 33-439 M.)

QUANTITY: 22 30-lb. cases at Omaha, Nebr.

SHIPPED: On or about 5-23-56, from Selma, Calif.

LIBELED: 10-24-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-27-56. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

23624. Kibbled carob beans and carob beans. (F. D. C. No. 39625. S. Nos. 24-610/11 M.)

QUANTITY: 402 bags, 120 to 130 pounds each, of Kibbled carob beans and 12 85-lb. bags of carob beans at Los Angeles, Calif.

SHIPPED: 10-17-55, from Limassol, Cyprus.

LIBELED: 11-13-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects, insect excreta, and webbing while held for sale.

DISPOSITION: 1-4-57. Consent—claimed by El Molino Mills, Alhambra, Calif. Segregated; 5,192 lbs. denatured.

23625. Dried red kidney beans. (F. D. C. Nos. 39603, 39604. S. Nos. 41-310/11 M.)

QUANTITY: 17 cases, 24 1-lb. pkgs. each, at Minneapolis, Minn.

SHIPPED: Between 4-18-56 and 10-4-56, from Merrill, Mich.

LIBELED: 10-24-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained moldy beans while held for sale.

DISPOSITION: 12-14-56. Default—consumption by animals.

23626. Dried lima beans. (F. D. C. No. 39494. S. No. 56-971 M.)

QUANTITY: 170 cases, 24 1-lb. bags each, at Chickasaw, Ala.

SHIPPED: 7-18-56, from Mobile, Ala., by China Doll, Inc., to Augusta, Ga., from where it was reshipped to Mobile, Ala.

LABEL IN PART: (Bag) "China Doll Finest Quality Large Lima Beans."

LIBELED: 10-5-56, S. Dist. Ala.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 10-15-56. Consent—claimed by China Doll, Inc. Segregated; 368 lbs. disposed of for use as hog feed.

23627. Dried lima beans, dried navy beans, and dried pinto beans. (F. D. C. No. 39646. S. Nos. 55-701/2 M, 55-706 M.)

QUANTITY: 4 100-lb. bags of lima beans, 4 100-lb. bags of navy beans, and 1 100-lb. bag of pinto beans at Cincinnati, Ohio, in the possession of Greis Bros. Wholesale Grocery.

SHIPPED: 2-21-56 (lima bean lot), from Oxnard, Calif.; 2-13-56 and 9-13-56 (navy bean lot), from Saginaw, Mich.; and 6-14-56 (pinto bean lot), from Gering, Nebr.

LIBELED: 10-23-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained (all lots) insects and (lima bean lot) rodent urine while held for sale; and 402 (a) (4)—(lima bean lot) held under insanitary conditions.

DISPOSITION: 11-30-56. Default—consumption by animals.

23628. Dried lima beans and cracked wheat. (F. D. C. No. 39471. S. Nos. 48-093/4 M.)

QUANTITY: 8 100-lb. bags of lima beans and 4 100-lb. bags of cracked wheat at Bronx, N. Y.

SHIPPED: 6-17-55 and 3-16-56, from Fresno and Los Angeles, Calif.

LIBELED: 9-27-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-31-56. Default—destruction.

23629. Canned pinto beans. (F. D. C. No. 39551. S. No. 27-417 M.)

QUANTITY: 39 cases, 24 15-oz. cans each, at Dallas, Tex.

SHIPPED: Between 6-5-56 and 7-26-56, from Fort Smith, Ark., by Good Canning Co.

LABEL IN PART: (Can) "Dependable Brand Pinto Beans."

LIBELED: On or about 9-4-56, N. Dist. Tex.

CHARGE: 402 (a) (1)—contained, when shipped, burrs, a deleterious substance, which may render the article injurious to health.

DISPOSITION: 10-22-56. Default—destruction.

23630. Dried split peas. (F. D. C. No. 39536. S. No. 41-026 M.)

QUANTITY: 99 100-lb. bags at Minneapolis, Minn., in possession of Twin City Car Checking Co.

SHIPPED: 11-1-54, from Oakesdale, Wash.

LIBELED: 8-21-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-5-56. Default—denatured for use as animal feed.

23631. Sweet mixed pickles. (F. D. C. No. 39636. S. No. 38-987 M.)

QUANTITY: 21 cases, 4 jars each, at Columbia, S. C.

SHIPPED: 9-11-56, from Mount Olive, N. C., by Mount Olive Pickle Co., Inc.

LABEL IN PART: (Jar) "Contents 1 Gallon Mount Olive Little Rebel Sweet Mixed Pickles."

LIBELED: 11-7-56, E. Dist. S. C.

CHARGE: 402 (a) (3)—contained maggots, flies, and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 2-25-57. Default—consumption by animals.

TOMATOES

23632. Canned tomatoes. (F. D. C. No. 39633. S. No. 61-861 M.)

QUANTITY: 1,000 cases, 24 1-lb. cans each, at Bronx, N. Y.

SHIPPED: 8-16-56, from Federalsburg, Md., by John N. Wright, Jr.

LABEL IN PART: (Can) "Wright's Best Tomatoes."

LIBELED: 10-24-56, S. Dist. N. Y.

CHARGE: 403 (g) (1)—when shipped, the article failed to conform to the definition and standard of identity for canned tomatoes since some cans contained peas instead of tomatoes as labeled; 403 (g) (2)—the article contained the optional ingredient, an added calcium salt, and its label failed to bear the name of such ingredient as required by the definition and standard of identity; and Section 403 (h) (1)—the quality of the article fell below the standard of quality for canned tomatoes because of excessive peel and blemishes and low drained weight.

DISPOSITION: 1-18-57. Consent—claimed by John N. Wright, Jr., and relabeled.

NUTS

23633. Unshelled brazil nuts. (F. D. C. No. 39651. S. Nos. 45-625/8M.)

QUANTITY: 17 100-lb. bags; 553 cases, 24 1-lb. bags each; 1,400 bags, containing a total of 180,000 lbs; and 750 bags, containing a total of 90,000 lbs., at Norfolk, Va.

SHIPPED: Between April 1955 and April 1956, from Brazil.

LIBELED: 10-25-56, E. Dist. Va.

CHARGE: 402 (a) (3)—contained moldy and rancid nuts and insects while held for sale.

DISPOSITION: 11-8-56. Consent—claimed by Southgate Foods, Inc., Norfolk, Va. Segregated; 33,400 lbs. destroyed.

23634. Shelled peanuts. (F. D. C. No. 39614. S. No. 33-560 M.)

QUANTITY: 34 60-lb. bags at Kansas City, Mo., in possession of Kansas City Terminal Warehouse Co.

SHIPPED: 6-27-56, from Suffolk, Va.

LIBELED: 10-29-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-6-56. Consent—claimed by Kansas City Terminal Warehouse Co. Segregated; 7 bags destroyed.

23635. Shelled pecans. (F. D. C. No. 39607. S. No. 56-660 M.)

QUANTITY: 7 30-lb. cases at Minneapolis, Minn.

SHIPPED: 9-25-56, from Tyler, Tex., by Woldert Co.

LIBELED: 10-29-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained decomposed pecans when shipped.

DISPOSITION: 12-27-56. Default—consumption by animals.

23636. Shelled walnuts. (F. D. C. No. 39615. S. No. 40-694 M.)

QUANTITY: 9 55-lb. boxes at Minneapolis, Minn.

SHIPPED: 9-17-56, from New York, N. Y., by Thomas F. Riddle & Co.

LABEL IN PART: (Boxes) "Amber Pieces 10464 Pvamabzade Produce of Iran."

LIBELED: 10-31-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insect-damaged, rancid, and moldy walnuts when shipped.

DISPOSITION: 12-27-56. Default—consumption by animals.

OILS AND FATS

23637. Table and cooking oil. (F. D. C. Nos. 39590, 39591. S. Nos. 26-458/9 M.)

QUANTITY: 59 1-gal. cans at Madison, Wis.

SHIPPED: 4-24-56 and 9-10-56, from Chicago, Ill., by J. P. Graziano Grocery Co.

LABEL IN PART: "Victoria Brand."

LIBELED: 10-11-56, W. Dist. Wis.

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in whole or in part omitted from the article when shipped; and 403 (a)—the label statement "An Excellent Blend Of Pure Corn Oil And Pure Olive Oil" was false and misleading as applied to the article, which contained corn oil with little if any olive oil.

DISPOSITION: 11-14-56. Default—delivered for the use of a charitable institution.

23638. Olive oil. (F. D. C. No. 39465. S. No. 52-628 M.)

QUANTITY: 128 cans at Elmont, N. Y.

SHIPPED: 8-1-56, from Lodi, N. J., by Elite Packing Co.

LABEL IN PART: "One Gallon The Prince Brand 100% Pure Imported Olive Oil."

LIBELED: 9-21-56, E. Dist. N. Y.

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in whole or in part omitted from the article when shipped; 402 (b) (2)—artificially flavored corn oil, with little or no olive oil, had been substituted for olive oil; 403 (a)—the label statement "100% Pure Imported Olive Oil" was false and misleading as applied to the article, which contained artificially flavored corn oil with little or no olive oil; and 403 (i) (2)—the article was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient since corn oil was not declared.

DISPOSITION: 10-29-56. Default—delivered for the use of a charitable institution.

SPICES, FLAVORS, AND SEASONING MATERIALS

23639. Angelica root. (F. D. C. No. 39647. S. No. 37-304 M.)

QUANTITY: 8 140-lb. bales at Brooklyn, N. Y.

SHIPPED: 2-20-56, from Belgium.

LIBELED: 10-24-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained moldy angelica root while held for sale.

DISPOSITION: 11-21-56. Consent—claimed by Karl H. Landes & E. Balint, Inc., New York, N. Y. Segregated; 126 lbs. denatured.

23640. Fennel seed. (F. D. C. No. 39592. S. No. 48-879 M.)

QUANTITY: 5 115-lb. bags and 1 100-lb. bag at Milwaukee, Wis.

SHIPPED: 8-21-56, from Brooklyn, N. Y., by Morris J. Golombeck, Inc.

LIBELED: 10-11-56, E. Dist. Wis.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 11-21-56. Default—destruction.

23641. Garlic. (F. D. C. No. 39444. S. No. 37-296 M.)

QUANTITY: 644 50-lb. crates at New York, N. Y.

SHIPPED: During January and February 1956, from Mexico.

LIBELED: 9-6-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects and decomposed garlic while held for sale.

DISPOSITION: 9-26-56. Default—destruction.

23642. Crushed red peppers. (F. D. C. No. 39516. S. No. 47-106 M.)

QUANTITY: 1 100-lb. bag at Philadelphia, Pa.

SHIPPED: 6-26-56, from Brooklyn, N. Y.

LIBELED: 10-10-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-5-56. Default—destruction.

23643. Sesame seed. (F. D. C. No. 39416. S. No. 37-290 M.)

QUANTITY: 2,100 100-lb. bags at New York, N. Y., in possession of Sun Warehouses, Inc.

SHIPPED: On or about 4-6-56, from El Salvador, Central America.

LIBELED: 8-21-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent urine while held for sale; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-9-56. Consent—claimed by American Halvah Products Co., Brooklyn, N. Y. Segregated; 871 bags found unfit and reconditioned by washing, husking, and rebagging.

23644. Turmeric. (F. D. C. No. 39634. S. No. 37-303 M.)

QUANTITY: 58 200-lb. bags at New York, N. Y.

SHIPPED: 7-26-56, from India.

LIBELED: 10-22-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-23-57. Consent—claimed by Kelly's America, Ltd., New York, N. Y. Segregated; 961 lbs. denatured.

23645. Imitation vanilla flavor (2 seizure actions). (F. D. C. Nos. 39294, 39295. S. Nos. 17-233 M, 17-235 M.)

QUANTITY: 87 cases, 24 8-oz. bottles each, at Salisbury, Md.

SHIPPED: Between 4-9-56 and 6-5-56, from Philadelphia, Pa., by Serv-Agen Corp. (Clawson Co.).

LABEL IN PART: (Btl.) "Bennett's Brand Imitation Vanilla Flavor."

LIBELED: On or about 7-16-56, Dist. Md.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous and deleterious substance, coumarin, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 1-22-57. Consent—destruction.

23646. Salad mix. (F. D. C. No. 39623. S. No. 27-245 M.)

QUANTITY: 45 cases, 12 jars each, at Birmingham, Ala.

SHIPPED: 9-26-56, from Crowley, La., by Tiffe's Fine Food Products.

LABEL IN PART: (Jar) "Tiffe Wop Salad Mix * * * Contents 1 Pint."

LIBELED: 11-6-56, N. Dist. Ala.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 12-6-56. Default—destruction.

23647. Salad mix. (F. D. C. No. 39626. S. No. 34-209 M.)

QUANTITY: 24 cases, 12 jars each, at Oklahoma City, Okla.

SHIPPED: 8-4-56, from Crowley, La., by Tiffe's Fine Food Products.

LABEL IN PART: (Jar) "Tiffe's Wop Salad Mix * * * Contents 1 Pint."

LIBELED: 11-9-56, W. Dist. Okla.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 12-19-56. Default—consumption by animals.

23648. Salad mix. (F. D. C. No. 39627. S. No. 42-891 M.)

QUANTITY: 13 cases, 12 jars each, at Little Rock, Ark.

SHIPPED: 9-24-56, from Crowley, La., by Tiffe's Fine Foods.

LABEL IN PART: (Jar) "Tiffe's Wop Salad Mix * * * Contents 1 Pt."

LIBELED: 11-9-56, E. Dist. Ark.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 12-12-56. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

23649. Vitamin tablets. (F. D. C. No. 39073. S. Nos. 47-730/1 M, 47-733 M.)

QUANTITY: 3 drums containing about 99,850 tablets, 3 drums containing about 99,800 tablets, and 3 drums containing about 49,800 tablets, at Roselle Park, N. J.

SHIPPED: Between 3-5-56 and 3-23-56, from Floral Park, N. Y., by Intermedico Corp.

LIBELED: 5-11-56, Dist. N. J.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁₂, had been in part omitted or abstracted from the tablets; and 403 (a)—the label statements on various portions of the tablets, namely, "Tablets Each to contain: * * * Vitamin B₁₂ . . . 3 mcg.," "Each tablet contains: * * * Vitamin B₁₂ . . . 2 mcgm.," and "Each tablet contains: * * * Vitamin B₁₂ . . . 5 mcgm.," were false and misleading as applied to tablets containing less than the stated amounts of vitamin B₁₂.

DISPOSITION: 9-13-56. Consent—claimed by Intermedico Corp. and relabeled.

23650. Vitamin tablets. (F. D. C. No. 39493. S. No. 47-803 M.)

QUANTITY: 5 1,000-tablet bottles, 57 200-tablet bottles, 12 125-tablet bottles, and 7 75-tablet bottles, at Brooklyn, N. Y.

SHIPPED: 6-5-56, from Newark, N. J., by Lit Sales Co., Inc.

LABEL IN PART: (Btl.) "Organic A-C-E 'Naturals' 1000 [or "200," "125," or "75"] Distributed by Stur-Dee Health Products * * * As a natural food supplement."

RESULTS OF INVESTIGATION: Analysis showed that the article contained about 45 percent of the declared amount of vitamin C.

LIBELED: 10-3-56, E. Dist. N. Y.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin C, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "6 tablets per day represents the following: * * * Vitamin C 30 Mg. 100% M. D. R." was false and misleading.

DISPOSITION: 11-28-56. Default—destruction.

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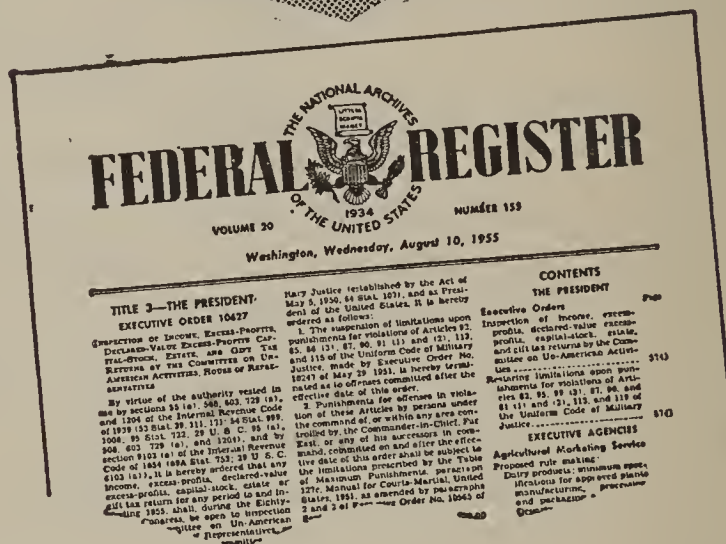
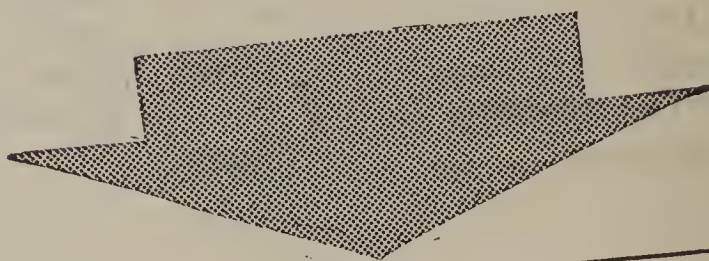
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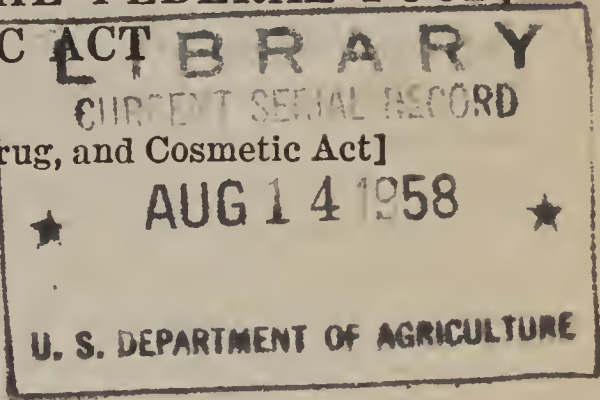
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23651-23750

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, by consent, or after hearing; and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation; and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *July 3, 1958.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23651-23750**

Adulteration, Section 402 (a) (1), the article contained an added poisonous substance which may have rendered it injurious to health; Section 402 (a) (2), the article, in three cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in one other case, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of contents; Section 403 (g) (1), the article purported to be and was represented as food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403 (i) (2), the article was not subject to the provisions of Section 403 (g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403 (k), the article contained a preservative, and it failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23651. Cakes and pies. (F. D. C. No. 39378. S. Nos. 40-012 M, 40-015 M, 48-849/50 M, 48-853 M, 59-885 M, 59-889/90 M, 59-893 M.)

INFORMATION FILED: 1-22-57, N. Dist. Ill., against Case-Moody Pie Corp., Chicago, Ill., and James Henderson (executive vice president and general manager).

SHIPPED: Between 11-16-55 and 6-29-56, from Illinois to Indiana and Wisconsin.

LABEL IN PART: (Pkg.) "Danish Coffee Cake Hazelnut [or "Date Nut" or "Pecan"] Net Wt. 10 Oz. [or "16 Oz.]," "Tea Room Quality Gold Layer Net Wt. 15 Oz.," or "Chocolate Whip."

CHARGE: 402 (a) (3)—contained insects, insect fragments, and rodent hairs; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 2-18-57. Corporation—\$1,000 fine; individual—\$100 fine.

23652. Bismarcks (bakery product), rolls, cherry pie, and apple pie. (F. D. C. No. 39387. S. Nos. 33-423/5 M.)

INFORMATION FILED: 2-6-57, Dist. Nebr., against Kuenne's Bakery, Inc., Omaha, Nebr., and Richard D. Riddle (president and treasurer).

SHIPPED: 9-4-56, from Nebraska to Iowa.

CHARGE: 402 (a) (4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 4-22-57. Corporation—\$450 fine, plus costs; individual—\$150 fine.

23653. Frozen pizza pies. (F. D. C. No. 39715. S. No. 54-584 M.)

QUANTITY: 475 cases, 12 9-oz. pies each, at Seattle, Wash.

SHIPPED: 6-18-56, from Newark, N. J.

LIBELED: 12-5-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained moldy pies while held for sale.

DISPOSITION: 4-15-57. Default—destruction.

23654. Bread crumbs. (F. D. C. No. 38596. S. Nos. 29-478 M, 29-860 M, 29-998 M, 36-710 M, 47-443 M.)

INFORMATION FILED: 4-24-56, Dist. N. J., against Devonsheer Melba Corp., West New York and North Bergen, N. J., Bert Weil, president and secretary, and Frank Pinto, plant manager.

SHIPPED: Between 8-18-55 and 11-25-55, from New Jersey to New York.

LABEL IN PART: (Pkg.) "Bread Crumbs For all type recipes Net Wt. 10 Oz. Avoir. Packed Expressly For H. C. Bohack Co., Inc. * * * Long Island & Brooklyn, N. Y." and "Devonsheer * * * Old English Style Golden Brown Toasted Bread Crumbs * * * Net Weight 10 Oz. Avoir. Manufactured by Devonsheer Melba Corp. West New York, N. J."

CHARGE: 402 (a) (3)—contained insect parts, insect larvae, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty by Corporation and Frank Pinto; nolo contendere by Bert Weil.

DISPOSITION: 6-8-56. Corporation fined \$1,000; Frank Pinto, \$500; and Bert Weil, \$1,000, and placed on probation for 1 year.

FLOUR*

23655. Flour. (F. D. C. No. 39405. S Nos. 61-663/4 M.)

INFORMATION FILED: 2-26-57, S. Dist. W. Va., against Kincaid Wholesale Co., a corporation, Spencer, W. Va., and James T. Kincaid, president.

ALLEGED VIOLATION: Between 8-14-56 and 10-9-56, while quantities of flour were being held for sale after shipment in interstate commerce, the defendants caused the flour to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the flour being adulterated.

*See also No. 23677.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-11-57. Defendants jointly fined \$500.

23656. Flour. (F. D. C. No. 39681. S. No. 59-589 M.)

QUANTITY: 300 100-lb. bags at Chicago, Ill., in possession of West Side Warehouse.

SHIPPED: 7-10-56, from Milwaukee, Wis.

LIBELED: 11-9-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 1-2-57. Consent—claimed by Urban F. Myers & Co., Chicago, Ill., and denatured for use as animal feed.

23657. Flour. (F. D. C. No. 38096. S. No. 16-447 M.)

QUANTITY: 390 100-lb. bags at Portland, Oreg.

SHIPPED: 6-8-55, from St. Anthony, Idaho, by St. Anthony Flour Mills.

LABEL IN PART: (Bag) "Clear Flour Bleached."

LIBELED: 7-25-55, Dist. Oreg.

CHARGE: 402 (a) (3)—contained rodent urine and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-25-55. Consent—claimed by Crown Mills, Portland, Oreg.; converted to animal feed.

23658. Rye flour. (F. D. C. No. 39657. S. No. 61-907 M.)

QUANTITY: 29 100-lb. bags at Yonkers, N. Y., in possession of Otto Brehm.

SHIPPED: 8-17-56, from Minneapolis, Minn.

LIBELED: 11-20-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects, rodent excreta, and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-18-56. Default—destruction.

23659. Flour. (F. D. C. No. 39550. S. No. 40-479 M.)

QUANTITY: 51 50-lb. bags at Mitchell, S. Dak.

SHIPPED: Between 7-20-56 and 8-4-56, from Grand Forks, N. Dak.

LIBELED: 8-29-56, Dist. S. Dak.

CHARGE: 402 (a) (3)—contained rodent urine while held for sale.

DISPOSITION: 10-12-56. Consent—segregated; 31 bags destroyed and 20 bags which were found to be good were delivered to charitable institutions.

23660. Flour and rolled oats. (F. D. C. No. 38498. S. Nos. 30-255/7 M.)

QUANTITY: 9 100-lb. bags of flour and 57 25-lb. bags of rolled oats at Peoria, Ill.

SHIPPED: Between 6-16-55 and 8-8-55, from Minneapolis and Winona, Minn.

LIBELED: 10-18-55, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-3-55. Consent—claimed by Gateway Milling Co., Peoria, Ill.; converted to animal feed.

23661. Flour. (F. D. C. No. 39542. S. No. 54-964 M.)

QUANTITY: 140 5-lb. bags and 100 10-lb. bags at Findlay, Ohio.

SHIPPED: Prior to 1953, from Omaha, Nebr.

LIBELED: 8-27-56, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-2-56. Default—destruction.

23662. Flour. (F. D. C. No. 38768. S. No. 11-753 M.)

QUANTITY: 500 140-lb. bags at New Orleans, La.

SHIPPED: 10-25-55, from McPherson, Kans.

LIBELED: 11-17-55, E. Dist. La.

CHARGE: 402 (a) (2)—contained, in interstate commerce, an added poisonous and deleterious substance, benzene hexachloride, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 7-12-56. Consent—claimed by Biehl & Co., Inc., New Orleans, La. Denatured for use in the manufacture of glue.

23663. Flour. (F. D. C. No. 38767. S. No. 11-752 M.)

QUANTITY: 160 100-lb. bags at New Orleans, La.

SHIPPED: 10-27-55, from Denver, Colo.

LIBELED: 11-17-55, E. Dist. La.

CHARGE: 402 (a) (2)—contained, in interstate commerce, an added poisonous and deleterious substance, benzene hexachloride, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 7-12-56. Consent—claimed by Biehl & Co., Inc., New Orleans, La. Denatured for use in the manufacture of glue.

23664. Flour. (F. D. C. No. 38766. S. No. 11-751 M.)

QUANTITY: 196 100-lb. bags at New Orleans, La.

SHIPPED: 10-26-55, from Greenville, Tex.

LIBELED: 11-17-55, E. Dist. La.

CHARGE: 402 (a) (2)—contained, in interstate commerce, an added poisonous and deleterious substance, benzene hexachloride, which is unsafe within the meaning of the law since it is a substance not required in the production of the article and can be avoided by good manufacturing practice.

DISPOSITION: 7-12-56. Consent—claimed by Biehl & Co., Inc., New Orleans, La. Denatured for use in the manufacture of glue.

MACARONI AND NOODLE PRODUCTS

23665. Spaghetti. (F. D. C. No. 24883. S. No. 12-958 K.)

QUANTITY: 20 cases, 48 8-oz. pkgs. each, at Wilmington, Del.

SHIPPED: 4-23-48, from New York, N. Y., by Buitoni Products, Inc.

LABEL IN PART: (Pkg.) "Buitoni 20% Protein Spaghetti."

LIBELED: 6-11-48, Dist. Del.

CHARGE: 402 (b) (2)—a product containing added gluten and having a protein content in excess of 13 percent had been substituted for spaghetti; and 403

(g) (1)—the article purported to be and was represented as spaghetti and failed to conform to the definition and standard of identity for spaghetti, as prescribed by regulations.

DISPOSITION: Buitoni Products, Inc., appeared as claimant and filed an answer to the libel, denying that the product was adulterated and misbranded as alleged, on the grounds that the spaghetti manufactured by Buitoni Products, Inc., was not spaghetti within the meaning of the standard for spaghetti, but, instead, a food for which no standard of identity had been established. Motions for summary judgment were filed by the claimant and the Government. The National Macaroni Manufacturers Association entered the case as *amicus curiae*. On September 14, 1954, the motions were heard; and on September 30, 1954, the court entered the following opinion [130 F. Supp. 715]:

LEAHY, *Chief Judge*: "An article of food labeled 'Buitoni 20% Protein Spaghetti' was seized under 21 U. S. C. § 334 (a). The libel charged the food was misbranded under 21 U. S. C. § 343 (g) (1) as it 'purported to be and was represented as 'a macaroni product, spaghetti, and failed to meet the definition and standard of identity established for that food by the apposite regulations.¹ Libellant charged 'gum gluten' had been added to the spaghetti so that protein content exceeded 13% by weight, when the standard of identity limits maximum protein content to 13% by weight.² Claimant is Buitoni Products, Inc. It admits the seized food was shipped in interstate commerce; 'spaghetti' is a food for which definition and standard of identity has been established under 21 U. S. C. § 341; and the seized food product does not conform to the regulatory requirements as the addition of the 'gum gluten' raises the protein content to 20%. Claimant's defense, which it charges libellant ignores, rests on the fact the seized food is one for which no standard of identity has been established under the Federal Food, Drug, and Cosmetic Act; and that prior to regulatory measures under the Act it had sold and still sells its product, which has 'a distinct and separate identity of its own.' Claimant moved for summary judgment. Libellant filed a cross motion.

"The paper record filed here consists, *inter alia*, of excerpts from the Federal Register which contained administrative findings of fact and regulations relating to macaroni and gluten macaroni hearings; petitions for judicial review filed in 1944-45 by Buitoni Products, Inc., in the Court of Appeals for the Second Circuit in connection with the establishment of standards of identity for alimentary paste; a sample of the seized food; claimant's labeling of the food; and claimant's answers to interrogatories, pre-trial admissions and affidavits.

"The definitions and standards of identity for macaroni products were established at the administrative hearings. In 1941,³ a hearing was held, at which members of the macaroni industry could appear,* to establish definitions and standards of identity for macaroni products, including spaghetti. Claimant appeared as a macaroni manufacturer and showed it was the 'oldest and largest producer of macaroni and similar products in Europe' and that 'the protein content of our spaghetti is 18 to 19 percent.' Claimant's proposals for definitions and standards of identity were rejected.⁴ Claimant filed a petition for judicial review in the Court of Appeals for the Second Circuit. By consent, the petition was dismissed and claimant granted a new hearing by the Federal Security Administrator on the issue of using gum

¹ 21 C. F. R. 16.1.

² 21 C. F. R. 16.1 (a) (5).

³ Administrative Hearing in Washington, November 7, 1941, before the Federal Security Agency—Docket No. F. D. C. 33, pp. 720-23.

*National Macaroni Manufacturers Association, a non-profit trade association which promotes the interest of macaroni products manufacturers, representing 103 companies engaged in the manufacture of macaroni products—approximately $\frac{2}{3}$ of the domestic macaroni products manufacturers and representing by its membership 85% of the national production of macaroni products—was permitted to intervene in these proceedings as *Amicus Curiae*. National Macaroni did not participate at oral argument, but filed its brief supporting the position of the Government for seizure.

⁴ Administrative Findings of Fact Nos. 42, 44, 45 and Conclusion (d).

gluten in order to establish definitions and standards of identity. The second hearing occurred in 1945.⁵ Claimant attempted to have the Administrator recognize gluten as a normal or usual ingredient of macaroni products. On the basis of ample evidence, the Administrator amended the standard of identity and permitted use of gum gluten, but limited its use by specifying total protein content of the finished food product should not exceed 13%. Again, claimant filed a petition for review to the Second Circuit. As the statutory period for review⁶ had lapsed, the case was dismissed.

"The relevant statutory and regulatory provisions are noted in the margin."⁷

"1. Where no genuine issue of fact exists, judgment is authorized by FR 56.⁸ Claimant argues that by utilization of the words '20% Protein' such qualifying label language takes its product from without the administrative standard and permits its sale without regard to such standard; the labeling, in short, yields legal differentiation. Libellant argues claimant's use of an adjectival addition to the usual name of spaghetti, still constitutes legal evasion. Libellant claims the standard and definition, supported by the administrative underlying findings reached in two administrative proceedings, must be accepted as valid. But, libellant argues, even if the administrative standard itself is legally deficient, that issue can not be tested in the proceedings at bar, for the single issue before the Court is whether the form and intent of the standards for spaghetti products precludes the interstate shipment and branding of the product labeled as 'Buitoni 20% Protein Spaghetti.' Precisely, the issue is a narrow one: whether under § 403 (g) claimant's labeled and merchandised product as advertised 'purports to be or is represented as spaghetti.' Based on pleadings, interrogatories, answers, requests for admissions and answers thereto and affidavits, the facts are beyond dispute.

"In addition to the administrative record, it is clear, here, claimant's labels show the name 'spaghetti' in the same size type as '20% protein.' Concededly the product looks like spaghetti in form, length and diameter.⁹ It is similar in color to other brands of spaghetti.¹⁰ Its retail packages are the same general size, shape, and physical appearance as those used by other spaghetti manufacturers.¹¹ It is manufactured from the same raw material as spaghetti.¹²

"While the record shows machinery and equipment used in manufacture are the same as other manufacturers of macaroni products use,¹³ and manner of mixing ingredients of the Buitoni product is the same as used by other manufacturers,¹⁴ the method and process of manufacture utilized are, I think, irrelevant to a determination of the issue to be decided here.

"The product is dried in the same manner as spaghetti made by other manufacturers.¹⁵ Merchandising channels are similar.¹⁶ The product is cooked like

⁵ Administrative Hearing in Washington, October 16, 1945, before the Federal Security Agency, Docket No. F. D. C. 33 (b), pp. 67, 70 and 77.

⁶ 21 U. S. C. § 371 (f).

⁷ 21 U. S. C. § 334 (a): "Any article of food, drug, device or cosmetic that is adulterated or misbranded when introduced into or while in interstate commerce * * * shall be liable to be proceeded against while in interstate commerce, or at any time thereafter, on libel of information and condemned in any district court of the United States within the jurisdiction of which the article is found: * * *"

⁸ 21 U. S. C. § 341: "Whenever in the judgment of the (Federal Security) Administrator such action will promote honesty and fair dealing in the interest of consumers, he shall promulgate regulations fixing and establishing for any food, under its common or usual name so far as practicable, a reasonable definition and standard of identity, * * *"

⁹ 21 U. S. C. § 343 (g): "A food shall be deemed to be misbranded—If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by section 341, unless (1) it conforms to such definition and standard, * * *"

Code of Federal Regulations, 21 C. F. R. 16.1, pp. 56-62 (1949 ed.), contains the definitions and standards of identity for all alimentary pastes, including spaghetti, duly promulgated pursuant to authority granted in 21 U. S. C. 341, and in accordance with the requirements of 21 U. S. C. 371 (e).

⁸ *Sartor v. Arkansas Natural Gas Corp.*, 321 U. S. 620, 627.

⁹ Request for Admission No. 27.

¹⁰ *Ibid.*, No. 28.

¹¹ *Ibid.*, No. 26.

¹² *Ibid.*, Nos. 1, 2 and 3.

¹³ *Ibid.*, No. 21.

¹⁴ *Ibid.*, No. 23.

¹⁵ *Ibid.*, No. 25.

¹⁶ *Ibid.*, Nos. 36 and 37.

spaghetti.¹⁷ It is eaten with the same type of cheese and sauce.¹⁸ Customers when ordering spaghetti from claimant's 'Spaghetti Bar' in New York City are served the 'Buitoni 20% Protein Spaghetti.'¹⁹ Claimant also by newspaper and radio advertises its product as spaghetti.²⁰

"2. Congress intended by the enactment of the statutes under consideration promulgation of a standard of identity that even a food product truthfully labeled or including wholesome or beneficial ingredients in a standardized food would be outlawed if forbidden by a valid regulation. The standardization program for classes of foods is the recognition, unless standards of identity are promulgated which limit kinds and ingredients of particular foods, a manufacturer's selection of the various ingredients and combination of ingredients on the basis of varying economic and merchandising considerations—outside the limits of the standard definitions—would result in diversity, both quantitative and qualitative, in the products offered to the public. This does not mean the administrative agency has arbitrary power to ordain the American diet. Substantive limitations and procedural safeguards are available.²¹ The present proceeding is not one to obtain Court review of the reasonableness of the administrative standards.

"Even though labeling may be truthful and informative, this does not in all instances satisfy the requirements of § 343 (g). In *Federal Security Administrator v. Quaker Oats Co.*, 318 U. S. 218, it was decided that even truthful, informative labeling for a product as to which a standard of identity had been promulgated does not justify departure from the standard fixed.²² Here, *Libby, McNeill & Libby v. United States*, 2 Cir., 148 F. 2d 71 (affirming 55 F. Supp. 725), closely governs the present case. In the *Libby* case the standard of identity for tomato catsup made no provision for the use of benzoate of soda as an ingredient. Labeling there specifically declared the food to be 'tomato catsup with preservative.' *Libby* contended the product was not sold as tomato catsup but was sold as tomato catsup with preservative and it was truthfully labeled and named accurately describing its contents; and, therefore, the food product did not purport to be represented as a standard food. The District Court held the product to be misbranded. On affirmance it was held (p. 72) :

Appellant contends that the label is controlling, that its product does not thereby purport to be catsup, even though it conforms in all respects to the standard, except for the added ingredient. It is a specific article, namely, tomato catsup with preservative, and since its label truthfully so indicates, there is no misbranding. * * * If producers of food products may, by adding to the common name of any such product mere words of qualification or description, escape the regulation of the Administrator,

¹⁷ *Ibid.*, No. 40.

¹⁸ *Ibid.*, Nos. 43 and 47.

¹⁹ *Ibid.*, Nos. 48 and 49.

²⁰ Requests for Admission Appendices A, B, C, D and E; Requests for Admission Nos. 51, 52 and 54.

²¹ The standard of identity must be "reasonable" (21 U. S. C. § 341) and a person adversely affected may have Court review (21 U. S. C. § 371 (f)).

²² At pp. 230-231: "Both the text and legislative history of the present statute plainly show that its purpose was not confined to a requirement of truthful and informative labeling. False and misleading labeling had been prohibited by the Pure Food and Drug Act of 1906. But it was found that such a prohibition was inadequate to protect the consumer from 'economic adulteration,' by which less expensive ingredients were substituted, or the proposition of more expensive ingredients diminished, so as to make the product, although not in itself deleterious, inferior to that which the consumer expected to receive when purchasing a product with the name under which it was sold. * * * The remedy chosen was not a requirement of informative labeling. Rather it was the purpose to authorize the Administrator to promulgate definitions and standards of identity 'under which the integrity of food products can be effectively maintained,' * * * and to require informative labeling only where no such standard had been promulgated, where the food did not purport to comply with a standard, or where the regulations permitted optional ingredients and required their mention on the label * * *."

"The provisions for standards of identity thus reflect a recognition by Congress of the inability of consumers in some cases to determine, solely on the basis of informative labeling, the relative merits of a variety of products superficially resembling each other * * *."

then the fixing of a standard for commonly known foods becomes utterly futile as an instrument for the protection of the consuming public. * * * The present product is intended to satisfy the demand and supply the market for—catsup. Emphasis is laid on its conforming to standard except for the preservative. The argument defeats itself, for if it is an article of food, distinguished from the standard by the qualification, then other ingredients may be added or defined ingredients or processes omitted without conflicting with the regulation, if containers are truthfully labeled. Judge Simons discussed the Quaker Oats case and concluded (p. 73) :

Neither the decision nor its rationalization in the Quaker Oats case, can be escaped by a product that looks, tastes, and smells like catsup, which caters to the market for catsup, which dealers bought, sold, ordered, and invoiced as catsup, without reference to the preservative, and which substituted for catsup on the tables of low priced restaurants. The observation in the (Quaker Oats) opinion that it was the purpose of the Congress to require informative labeling, "where the food did not purport to comply with a standard" is not to be lifted out of its context, given a meaning repugnant to the decision, so as to limit "purport" to what is disclosed by the label and to that alone.²³

"3. Claimant in the proceeding at bar relies strongly for absence of misbranding under 21 U. S. C. § 343 (g) on the Supreme Court's most recent decision in 62 Cases of Imitation Jam v. United States, 340 U. S. 593. There it was held the seized jam was an imitation of a standard food and since labeled 'imitation,' as provided by § 403 (c), its action was not prohibitory under § 403 (g). The Imitation case holds, in short, the labeling of a food is controlling if it reveals the food is branded as an imitation in compliance with § 343 (c). The decision is limited to this narrow field. I do not read the opinion as limiting the scope of the Quaker Oats decision—i. e., § 343 (g) is 'not confined to a requirement of truthful and informative labeling.' The crux of the matter is we are not here involved with a labeling of 'imitation spaghetti.' Products may differ in physical characteristics, in composition and labeling so as to be different and to constitute a food product for which no standard of identity has been promulgated by the Administrator. But, again this is not the situation in the case at bar. The seized food is plainly labeled as 'spaghetti.' It looks like spaghetti. It is advertised and merchandised as spaghetti. The present article in the market place contains no distinct subtleties so as to make it an unstandardized product. Clearly, it has no refuge as an imitation product. The conclusion is plain. The seized article of claimant is a spaghetti which does not conform to the standard of identity.

"Claimant's motion for summary judgment is denied. Government's cross motion for summary judgment is granted and the libel sustains forfeiture."

Claimant, Buitoni Foods Corp., subsequently moved for reargument on November 5, 1954. Reargument was heard on February 18, 1955, and the court reaffirmed its previous findings on April 15, 1955, with the following opinion [130 F. Supp. 720] :

ON REARGUMENT

LEAHY, *Chief Judge*: "After the filing of the Court's opinion, D. C. Del., 130 F. Supp. 715, defendant was granted reargument on the question as to whether its basic argument, namely, its product had a separate identity which precluded the application of 21 U. S. C. § 343 (g), should be reconsidered.

"1. It is probable (but true as defendant contends) 'Buitoni 20% spaghetti has a history of separate identity back 100 years prior to the formulation of any regulations or standards.' But I am not convinced the circumstances of production, marketing and consumption of macaroni products in this country

²³ To the same effect, see *United States v. 30 Cases* * * * "Leader Brand Strawberry Fruit Spread," D. C. Iowa, 93 F. Supp. 764; and *United States v. Omar, Inc.*, D. C. Nebr., 91 F. Supp. 121.

dating from the time of the promulgation of the regulations to the present time, permit this separate identity. As shown in the main opinion, the manufacture, appearance and preparation of defendant's product do not yield legal differentiation. Applicability of 21 U. S. C. § 343 (g) is not a historical one, but a practical administrative judgment made from the consumer's standpoint. In short, the standard is not denied application merely because a precise historical tracing will not support it, but because the buying and consuming practices of the public reject its application. Moreover, the administrative record in this case indicates the Federal Security Administrator's ruling limiting gum gluten content to 13% has not been disturbed by any judicial ruling by any court and especially since claimant's petition for review to the Court of Appeals for the Second Circuit was dismissed. Accordingly, I adhere to my original determination defendant's product is controlled by § 343 (g) and may not be brought within the coverage of § 343 (i) as a product for which no standard has been promulgated.

"2. Other points raised by defendant in its reargument are merely variations of its basic contention, i. e., its product has a separate identity. My disposition of the separate identity argument has equal application to the corollaries of defendant's main argument.

"For the reasons stated, the Court reaffirms the conclusions set forth in its opinion of September 30, 1954."

Pursuant to the reargument, the court entered an order on May 13, 1955, for condemnation and destruction. Execution was suspended when the claimant noted an appeal to the United States Court of Appeals for the Third Circuit. The National Macaroni Manufacturers Association again entered the case as *amicus curiae*. The case was argued on December 8, 1955, and on January 3, 1956, the court of appeals handed down an opinion [228 F. 2d 912] stating that the district court completely and correctly disposed of the case and affirming the opinion of the district court.

The cases of spaghetti were destroyed.

23666. Spaghetti. (F. D. C. No. 39542. S. No. 55-313 M.)

QUANTITY: 7 cases, 12 8-oz. pkgs. each, at Findlay, Ohio.

SHIPPED: On an unknown date, from Bridgeport, Pa.

LIBELED: 8-27-56, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-5-56. Default—destruction.

23667. Macaroni and spaghetti. (F. D. C. No. 39714. S. Nos. 33-661 M, 33-664 M.)

QUANTITY: 5 cases, 24 7-oz. ctns. each, of macaroni, and 4 cases, 24 boxes each, of spaghetti at Parsons, Kans.

SHIPPED: On various dates between 1944 and May 1956, from Kansas City, Mo., and Des Moines, Iowa.

LIBELED: 1-11-57, Dist. Kans.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 4-2-57. Default—destruction.

23668. Egg noodles. (F. D. C. No. 39560. S. Nos. 41-032/7 M.)

QUANTITY: 56 cases, 12 1-lb. bags each, and 26 cases, 24 8-oz. bags each, at Mason City, Iowa.

SHIPPED: Between 1-1-55 and 7-5-56, from Milwaukee, Wis.

LIBELED: 9-8-56, N. Dist. Iowa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-10-56. Default—denatured for use as animal feed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

23669. Barley. (F. D. C. No. 39144. S. No. 25-075 M.)

QUANTITY: 118,000 lbs. at Helix, Oreg.

SHIPPED: 6-1-56, from Pasco, Wash. This was a return shipment.

LIBELED: 6-8-56, Dist. Oreg.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a mercurial compound, a pesticide chemical, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley has been prescribed by regulations.

DISPOSITION: 10-18-56. Consent—claimed by Farmers Mutual Warehouse Co. Segregated; 18,760 lbs. destroyed.

23670. Brewers grits. (F. D. C. No. 39655. S. No. 39-659 M.)

QUANTITY: 300 100-lb. bags at Charlotte, N. C., in possession of Atlantic Co.

SHIPPED: 6-29-56, from Mount Vernon, Ind., and Paris, Ill.

LIBELED: 10-31-56, W. Dist. N. C.

CHARGE: 402 (a) (3)—contained rodent excreta and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 11-9-56. Consent—claimed by Atlantic Co. and denatured for use as poultry feed.

23671. Rice. (F. D. C. No. 39572. S. Nos. 28-785/6 M.)

QUANTITY: 150 100-lb. bags of milled rice and 200 100-lb. bags of pearl rice at Honolulu, T. H.

SHIPPED: 8-23-56, from Stockton, Calif., by Rocca Cuvi, Inc., and Pacific International Rice Mills, Inc.

LABEL IN PART: (Bag) "U. S. No. 1 Extra Fancy California Pearl Milled Rice" and "U. S. No. 1 Extra Fancy California Pearl Rice Fukusuke Mai."

LIBELED: 9-19-56, Dist. Hawaii.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 11-26-56. Consent—150 bags claimed by Rocca Cuvi, Inc., and 200 bags claimed by Pacific International Rice Mills, Inc. Segregated; 250 full and 2 partially filled 100-lb. bags denatured for use as animal feed.

23672. Rice. (F. D. C. No. 39726. S. No. 62-786 M.)

QUANTITY: 317 100-lb. bags at New York, N. Y., in possession of Sun Warehouses, Inc.

SHIPPED: 9-29-56, from Houston, Tex.

LIBELED: 12-28-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 1-24-57. Consent—claimed by Connell Rice & Commission Co., Inc., New York, N. Y. Segregated; 19 100-lb. bags destroyed.

*See also No. 23660.

23673. Rice. (F. D. C. No. 39686. S. Nos. 54-482/4 M.)

QUANTITY: 122 100-lb. bags at Tacoma, Wash.

SHIPPED: Between 10-2-54 and 10-23-56, from Rayne, La., Houston, Tex., and an unknown place in California.

LIBELED: 11-14-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-28-56. Consent—claimed by Standard Grocery Co., Tacoma, Wash. Segregated; 369 lbs. destroyed.

23674. Rice. (F. D. C. No. 39558. S. Nos. 54-967/9 M.)

QUANTITY: 40 100-lb. bags at Cincinnati, Ohio.

SHIPPED: Between 11-29-55 and 5-9-56, from Carlisle and Jonesboro, Ark.

LIBELED: 9-6-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-3-56. Default—consumption by animals.

23675. Rice. (F. D. C. No. 39546. S. No. 41-031 M.)

QUANTITY: 10 100-lb. bags at Minneapolis, Minn.

SHIPPED: 6-8-56, from De Witt, Ark.

LIBELED: 8-24-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-5-56. Default—denatured for use as animal feed.

23676. Rice. (F. D. C. No. 39559. S. No. 40-970 M.)

QUANTITY: 7 100-lb. bags at St. Louis Park, Minn., in possession of Slocum-Bergren Co.

SHIPPED: 5-29-56, from Memphis, Tenn.

LIBELED: 9-10-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-26-56. Default—denatured for use as animal feed.

23677. Farina, rice, and flour. (F. D. C. No. 39320. S. Nos. 31-661/3 M, 35-742/4 M.)

INFORMATION FILED: 8-21-56, N. Dist. Ill., against John Sexton & Co., a corporation, Chicago, Ill.

ALLEGED VIOLATION: Between 1-12-55 and 10-10-55, the defendants caused quantities of farina, rice, and flour, while held for sale after shipment in interstate commerce, to be placed in a building accessible to and infested with rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402 (a) (3)—the flour contained rodent urine, and the rice contained rodent urine, rodent hairs, and rodent excreta; and 402 (a) (4)—all of the articles were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-26-56. \$1,000 fine, plus costs.

23678. Pumpernickel rye meal. (F. D. C. No. 38178. S. No. 17-099 M.)

QUANTITY: 40 100-lb. bags at Richmond, Va., in possession of Southern Biscuit Co., Inc.

SHIPPED: 2-1-55, from Buffalo, N. Y.

LIBELED: On or about 6-13-55, E. Dist. Va.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-1-55. Consent—claimed by Southern Biscuit Co., Inc., and converted to animal feed.

CHOCOLATE PRODUCTS AND CONFECTIONERY

23679. Bulk chocolate. (F. D. C. No. 39774. S. Nos. 55-520 M, 55-522 M.)

QUANTITY: 6 50-lb. bags at Cincinnati, Ohio.

SHIPPED: 8-29-56, from Brooklyn, N. Y.

LIBELED: 11-20-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects and insect webbing while held for sale.

DISPOSITION: 12-5-56. Default—consumption by animals.

23680. Bulk chocolate. (F. D. C. No. 39650. S. Nos. 47-367/9 M.)

QUANTITY: 885 64 ½-lb. ctns. at Reading, Pa.

SHIPPED: On 7-26-56 and during September 1956, from New York, N. Y.

LIBELED: 10-24-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-1-56. Consent—claimed by General Cocoa Co., Inc., New York, N. Y., as agent for Chocolatera Industrial C. por A., a foreign corporation. Reconditioned; 1,488 lbs. destroyed.

23681. Cocoa. (F. D. C. No. 39542. S. No. 55-314 M.)

QUANTITY: 13 boxes, 100 1 ½-oz. envelopes each, at Findlay, Ohio.

SHIPPED: 6-18-56 and 8-2-56, from White Plains, N. Y.

LIBELED: 8-27-56, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-2-56. Default—destruction.

23682. Candy. (F. D. C. No. 39631. S. No. 48-123 M.)

QUANTITY: 38 boxes at Newark, N. J.

SHIPPED: 9-17-56, from Brooklyn, N. Y., by Franklin Novelties Corp.

LABEL IN PART: (Box) "2 c. each 60 count Franklin's Roasted Turkeys. Ing.: Sugar, Corn Syrup, Gelatin, Sorbitol, Artificial Flavor and Certified Colors."

LIBELED: 10-16-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained maggots, insect fragments, fly eggs, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 11-28-56. Default—destruction.

DAIRY PRODUCTS

BUTTER

23683. Butter. (F. D. C. No. 39385. S. Nos. 19-613 M, 55-134 M.)

INFORMATION FILED: 3-1-57, S. Dist. Ind., against Leonard Kohlman, t/a Napoleon Creamery, Napoleon, Ind.

SHIPPED: 7-25-56, from Indiana to Ohio.

LABEL IN PART: (Ctn.) "30# Butter" or "One Pound Net Weight Amelia Dairy Butter Amelia Dairy Co., Bethel, Ohio Distributors."

CHARGE: 402 (a) (3)—contained insect fragments; 402 (a) (4)—prepared under insanitary conditions; 402 (b) (1)—a valuable constituent, milk fat, had been in part omitted from the article; and 402 (b) (2)—a product which contained less than 80 percent by weight of milk fat had been substituted for butter.

PLEA: Guilty.

DISPOSITION: 3-22-57. \$300 fine, plus costs.

23684. Butter. (F. D. C. No. 39402. S. Nos. 33-485 M, 56-607 M, 60-424 M.)

INFORMATION FILED: 2-27-57, Dist. Nebr., against Herman T. Boland and Alfred L. Olson, partners in Bloomfield Creamery, Bloomfield, Nebr.

SHIPPED: Between 7-18-56 and 8-15-56, from Nebraska to Illinois and Iowa.

LABEL IN PART: (Ctn.) "Butter L. D. Schreiber & Co. Inc. Sales Agents for The Marketing Association of America A Cooperative Distributors Chicago 761 Illinois Net Wt. 64" and "Butter 64 Lbs. Net."

CHARGE: 402 (a) (3)—contained insect fragments and other insect filth, and it was prepared with filth-contaminated cream; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-28-57. Each defendant fined \$200, plus costs.

23685. Butter. (F. D. C. No. 37155. S. No. 14-189 M.)

QUANTITY: 36 63-lb. cubes and 45 lbs. at Neosho, Mo.

SHIPPED: On 8-12-55, 21 cans of cream were shipped from various places in Oklahoma to Neosho, Mo., and subsequently were used in the manufacture of the butter.

RESULTS OF INVESTIGATION: The butter was found to be made from decomposed cream.

LIBELED: 8-30-55, W. Dist. Mo.

CHARGE: 402 (a) (3)—when shipped, the cream contained a decomposed substance.

DISPOSITION: 10-26-55. Consent—claimed by Cudahy Packing Co., Neosho, Mo., and converted to butter oil.

CHEESE

23686. Cheese. (F. D. C. No. 39365. S. No. 41-339 M.)

INFORMATION FILED: 1-8-57, N. Dist. N. Y., against Wesley J. Alexander, t/a West Martinsburg Cheese Factory, Lowville, N. Y.

ALLEGED VIOLATION: On 2-15-56, the defendant gave to a firm engaged in the business of shipping cheese in interstate commerce a guaranty to the effect that all products shipped by the defendant to the holder of the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On 5-4-56, the defendant shipped a number of boxes of adulterated cheese to the holder of the guaranty at Heuvelton, N. Y.

CHARGE: 402 (a) (3)—contained insect fragments and manure fragments and was prepared from filth-contaminated milk; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 1-16-57. \$200 fine.

23687. Grated cheese. (F. D. C. No. 39199. S. No. 22-760 M.)

INFORMATION FILED: 4-25-57, Dist. Vt., against C. Economou Cheese Corp., Hinesburg, Vt., and Costas Economou, president.

SHIPPED: 7-8-55, from Vermont to Massachusetts.

LABEL IN PART: (Jar) "Churny Imported Parmesan Style Grated Cheese Contains domestic and imported Italian cheese made from partially skimmed milk Net Wt. 2½ Oz. Packed For Paul Peters Co. Boston."

CHARGE: 402 (a) (3)—contained fragments of flies, mites, insect fragments, and moth scales; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-27-57. \$500 fine against each defendant.

FEEDS AND GRAINS

23688. Menhaden fish meal. (F. D. C. No. 39391. S. No. 43-097 M.)

INFORMATION FILED: 4-30-57, E. Dist. Ill., against Schaefer Feed Co., East St. Louis, Ill., and Robert W. Schaefer, president.

SHIPPED: 4-4-56, from Illinois to Missouri.

LABEL IN PART: (Bag) "Fish Meal 60% Protein Menhaden."

CHARGE: 402 (b) (2)—when shipped, meat and bone scraps, blood meal, horn, and hair had been substituted in part for menhaden fish meal; and 403 (a)—the label statement "Fish Meal * * * Menhaden" was false and misleading.

PLEA: Guilty.

DISPOSITION: 5-14-57. Corporation—\$2,500 fine; individual—\$1,000 fine and probation for 3 years.

23689. 60 Protein Feeding Tankage. (F. D. C. No. 39084. S. No. 120 M.)

QUANTITY: 38 100-lb. bags at Fairbury, Nebr.

SHIPPED: 3-9-56, from Narka, Kans. This was a return shipment.

LABEL IN PART: (Bag) "60 Protein Feeding Tankage."

RESULTS OF INVESTIGATION: Examination showed that the article contained a substantial amount of poultry feathers.

LIBELED: 3-16-56, Dist. Nebr.

CHARGE: 402 (b) (2)—when shipped, poultry feathers had been substituted in part for tankage; 402 (b) (4)—poultry feathers had been added to the article and mixed and packed with it so as to increase its bulk and reduce its quality; 403 (a)—the label designation "Tankage" was false and misleading as applied to tankage which contained poultry feathers; and 403 (i) (2)—the label of the article failed to bear the common or usual name of each ingredient.

DISPOSITION: 4-4-56. Consent—destruction.

23690. Cattle Range Wafers. (F. D. C. No. 39556. S. No. 25-478 M.)

QUANTITY: 800 100-lb. bags at Melville, Mont.

SHIPPED: Between 10-29-55 and 2-21-56, from Sioux Falls, S. Dak., by Sharp Milling Co.

LABEL IN PART: (Bag) "40% Green Range Wafers Guaranteed Analysis Crude Protein, Not Less Than 40.0% (The Protein Contains Not More Than 13.3% Equivalent Crude Protein From Non-Protein Nitrogen)."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 19 percent nitrogen from nonprotein sources and that an excess of urea was present.

LIBELED: 9-14-56, Dist. Mont.

CHARGE: 402 (b) (2)—when shipped, urea had been substituted in whole or in part for protein; and 403 (a)—the label statement "Crude Protein, Not Less Than 40.0% (The Protein Contains Not More Than 13.3% Equivalent Crude Protein From Non-Protein Nitrogen)" was false and misleading.

DISPOSITION: 5-17-57. Default—destruction.

FISH AND SHELLFISH

23691. Frozen fish. (F. D. C. No. 39612. S. No. 53-085 M.)

QUANTITY: 21 ctns., 10 pkgs. each, at Dallas, Tex.

SHIPPED: 3-20-56, from Chicago, Ill., by Pick-Shapiro Fisheries, Inc.

LABEL IN PART: (Pkg.) "Fast Frozen Fillets 5 Lbs. Net Weight Product of Canada Acadia Fisheries Ltd. Mulgrave, N. S. Canada."

LIBELED: 11-2-56, N. Dist. Tex.

CHARGE: 402 (a) (3)—contained parasitic worms when shipped.

DISPOSITION: 12-17-56. Default—consumption by animals.

23692. Frozen carp fillets. (F. D. C. No. 39669. S. No. 47-869 M.)

QUANTITY: 214 30-lb. cans at Newark, N. J.

SHIPPED: 6-8-56, from Spirit Lake, Iowa.

LIBELED: 11-8-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 12-10-56. Consent—claimed by Mother's Food Products, Inc., Newark, N. J., and destroyed.

23693. Salt herring. (F. D. C. Nos. 39711, 39716. S. Nos. 61-486/8 M.)

QUANTITY: 200 tins, 250 herring each; 60 tubs, 250 herring each; 129 barrels, 1,000 herring each; and 191 barrels, 2,000 herring each, at Richmond, Va.

SHIPPED: Between 4-17-56 and 5-24-56, from Edenton, N. C., by M. J. Tynch Fish Co.

LABEL IN PART: (Tins and tubs) "Dixie Brand * * * Cut Herring."

LIBELED: 12-3-56, E. Dist. Va.; amended libel 12-6-56.

CHARGE: 402 (a) (3)—contained houseflies, other insects, insect parts, and rodent hair fragments; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 12-27-56. Consent—claimed by M. J. Tynch, Edenton, N. C. The article was brought into compliance with the law by a thorough washing and cleaning.

23694. Frozen ocean perch fillets. (F. D. C. No. 39527. S. No. 42-923 M.)

QUANTITY: 145 cases, 12 1-lb. pkgs. each, at Champaign, Ill.

SHIPPED: 7-31-56, from Boston, Mass., by Booth Fisheries, Inc.

LABEL IN PART: (Pkg.) "IGA Ocean Perch Fillets * * * Frozen Fish * * *
Cleaned Ready to Cook."

LIBELED: 8-17-56, E. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 9-5-56. Default—destruction.

23695. Canned sardines. (F. D. C. No. 39693. S. No. 37-308 M.)

QUANTITY: 798 cases, 100 3¾-oz. tins each, at New York, N. Y.

SHIPPED: 2-6-48, from Spain.

LIBELED: 11-26-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed substance while held for sale.

DISPOSITION: 12-18-56. Default—destruction.

23696. Frozen whitefish. (F. D. C. No. 39552. S. Nos. 41-669 M, 41-684 M.)

QUANTITY: 142 100-lb. boxes at Buffalo, N. Y.

SHIPPED: Between 2-14-56 and 3-30-56, from Detroit, Mich., by J. Kozloff Fish Distributors, Inc.

LABEL IN PART: (Box) "Large Whitefish Product of Canada Reindeer Lake Shipper—Sask. Fish Marketing Service Prince Albert, Sask. 13624," "Reindeer Lake, Manitoba Jumbo * * * Whitefish 1738," or "Jumbo Whitefish Z3624 Product of Canada * * * Reindeer Lake Sask. Fish Marketing Service Prince Albert, Sask."

LIBELED: 8-30-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 10-1-56. Default—destruction.

23697. Frozen whitefish. (F. D. C. No. 39554. S. No. 41-685 M.)

QUANTITY: 54 100-lb. boxes at Buffalo, N. Y.

SHIPPED: 3-30-56, from Detroit, Mich., by J. Kozloff Fish Distributors, Inc.

LABEL IN PART: (Box) "614 Product of Canada DSD Large Whitefish 13624 7789 Reindeer Lake Sask. Fish Marketing Service Prince Albert, Sask."

LIBELED: 8-30-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 10-1-56. Default—destruction.

23698. Oysters. (F. D. C. No. 39692. S. No. 20-467 M.)

QUANTITY: 1 barrel containing 202 cans at Rockford, Ill.

SHIPPED: 11-9-56, from Cambridge, Md., by I. L. Leonard & Co.

LABEL IN PART: (Can) "Oysters Standards Leonard's Oysters 12 U. S. fl. oz."

LIBELED: 11-15-56, N. Dist. Ill.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed with them to increase their bulk or weight and reduce their quality.

DISPOSITION: 12-13-56. Default—destruction.

23699. Oysters. (F. D. C. No. 39571. S. No. 45-012 M.)

QUANTITY: 144 pts. at Spokane, Wash.

SHIPPED: 9-14-56, from Crisfield, Md., by Carol Dryden & Co., Inc.

LABEL IN PART: "Oysters Standards * * * One Pint Pride of the Chesapeake Oysters."

LIBELED: 9-19-56, E. Dist. Wash.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 10-25-56. Default—destruction.

23700. Frozen oysters. (F. D. C. No. 39573. S. No. 45-015 M.)

QUANTITY: 148 cans at Robinson, Ill.

SHIPPED: 9-17-56, from Cambridge, Md., by J. W. Clayton Co.

LABEL IN PART: (Can) "Oysters Standards 1157 Clayton's Epicure Quality Brand Frozen Oysters 12 oz. Avoirdupois."

LIBELED: 9-20-56, E. Dist. Ill.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 10-19-56. Default—destruction.

23701. Oysters. (F. D. C. No. 39574. S. No. 45-435 M.)

QUANTITY: 64 cans at Portland, Oreg.

SHIPPED: 9-17-56, from Crisfield, Md., by L. R. Carson, Inc.

LABEL IN PART: "Oysters Selects One Pint Quality Brand * * * MD 243."

LIBELED: 9-25-56, Dist. Oreg.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 12-21-56. Default—delivered to a charitable institution.

23702. Oysters. (F. D. C. No. 39702. S. Nos. 61-682/3 M.)

QUANTITY: 14 12-oz. cans of oysters standards and 46 12-oz. cans of oysters selects at Clarksburg, W. Va.

SHIPPED: 11-13-56, from Baltimore, Md.

LIBELED: 11-26-56, N. Dist. W. Va.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters while held for sale; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 12-20-56. Default—destruction.

FRUITS AND VEGETABLES

DRIED FRUIT

23703. Seedless raisins. (F. D. C. No. 39718. S. Nos. 45-280/2 M.)

QUANTITY: 7 30-lb. cases and 8 30-lb. cartons at Hyattsville, Md.

SHIPPED: 10-10-56 and prior to 10-5-56, from San Francisco and Fresno, Calif., and Boston, Mass.

LIBELED: On or about 12-14-56, Dist. Md.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-28-57. Default—consumption by animals.

23704. Seedless raisins. (F. D. C. No. 39542. S. No. 54-963 M.)

QUANTITY: 4 30-lb. cartons at Findlay, Ohio.

SHIPPED: Prior to August 1951, from San Francisco, Calif.

LIBELED: 8-27-56, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-27-56. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

23705. Lima beans and kidney beans. (F. D. C. No. 39705. S. Nos. 46-491/2 M.)

QUANTITY: 140 100-lb. bags of lima beans and 91 100-lb. bags of kidney beans at Philadelphia, Pa.

SHIPPED: 3-1-55 and 1-20-56, from Oxnard, Calif., and Oakfield, N. Y.

LIBELED: 11-21-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-9-57. Consent—claimed by Jacob Kauffman, Philadelphia, Pa., and converted to animal feed.

23706. Mung beans. (F. D. C. No. 39675. S. Nos. 56-747/8 M.)

QUANTITY: 636 100-lb. bags at Duluth, Minn.

SHIPPED: 6-20-56, from Brooklyn and New York, N. Y.

LIBELED: 11-10-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-3-56. Consent—claimed by Chun King Sales, Inc., Duluth, Minn. Segregated; 842 lbs. destroyed.

23707. Canned pinto beans. (F. D. C. No. 39578. S. No. 43-158 M.)

QUANTITY: 80 cases, 24 15-oz. cans each, at Joplin, Mo.

SHIPPED: Between 2-7-56 and 8-13-56, from Fort Smith, Ark., by Good Canning Co.

LABEL IN PART: (Can) "Dependable Brand Pinto Beans."

LIBELED: On or about 9-26-56, W. Dist. Mo.

CHARGE: 402 (a) (1)—contained, when shipped, burrs, a deleterious substance, which may render the article injurious to health.

DISPOSITION: 11-21-56. Default—destruction.

23708. Canned mushrooms. (F. D. C. Nos. 39057, 39081, 39089, 39115, 39116, 39247. S. Nos. 34-011 M, 40-051 M, 40-061 M, 40-635/6 M, 40-786 M, 40-798 M.)

QUANTITY: 3,335 cases, 24 4-oz. cans each, and 192 cases, 24 8-oz. cans each, at Chicago, Ill.; Kansas City, Kans.; and Hopkins, Minneapolis, and St. Paul, Minn.

SHIPPED: Between 1-16-56 and 4-4-56, from Hudson, N. Y., by K-B Products Corp.

LABEL IN PART: (Can) "Knaust's Cavern Brand Pieces And Stems Mushrooms" and "Elf Brand Stems And Pieces Mushrooms."

LIBELED: Between 3-14-56 and 5-28-56, N. Dist. Ill., Dist. Kans., and Dist. Minn.

CHARGE: 402 (a) (3)—all lots of the article consisted in whole or in part of a decomposed substance when shipped; and 403 (g) (1)—portions of the article failed to conform to the definition and standard of identity for canned mushrooms since they had not been processed by heat so as to prevent spoilage.

DISPOSITION: Between 4-17-56 and 6-26-56. Consent—claimed by K-B Products Corp. Segregated; unfit portions destroyed.

23709. Sweet mixed pickles. (F. D. C. No. 39394. S. No. 52-159 M.)

INFORMATION FILED: 3-21-57, E. Dist. N. Y., against Joseph Weinenger, t/a Society Food Products Co., Brooklyn, N. Y.

SHIPPED: 8-13-56, from New York to New Jersey.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-21-57, 30-day jail sentence; 6-26-57, sentence reduced to time already served and defendant placed on probation for 1 year and 1 day.

23710. Sweet India relish. (F. D. C. No. 39706. S. Nos. 47-119/20 M.)

QUANTITY: 10 cases, 12 12-oz. jars each, and 4 cases, 4 1-gal. jars each, at Philadelphia, Pa.

SHIPPED: 7-18-56 and 8-23-56, from Vineland, N. J., by Colony Foods, Inc.

LABEL IN PART: (Jar) "Arleen Brand * * * Sweet India Relish."

RESULTS OF INVESTIGATION: Examination of the article showed that it contained sodium benzoate.

LIBELED: 11-21-56, E. Dist. Pa.

CHARGE: 403 (k)—when shipped, the article contained an added preservative and failed to bear labeling stating that fact.

DISPOSITION: 12-17-56. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

23711. Canned tomatoes. (F. D. C. No. 37213. S. Nos. 4-276 L, 87-852/3 L.)

INFORMATION FILED: 2-14-55, Dist. Md., against Robert Mance, t/a Chester Packing Co., Chestertown, Md.

SHIPPED: 6-24-54, from Maryland to Pennsylvania.

LABEL IN PART: (Can) "Contents 1 Lb. Red-Glo Tomatoes Albert W. Sisk and Son Distributors Preston, Maryland."

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

PLEA: Guilty.

DISPOSITION: 9-5-57. \$750 fine; sentence of 30 days in prison suspended.

23712. Canned tomatoes. (F. D. C. No. 39637. S. No. 1-956 M.)

QUANTITY: 1,998 cases, 24 cans each, at Norfolk, Va.

SHIPPED: 8-29-56, from Linkwood, Md., by A. W. Sisk & Son.

LABEL IN PART: (Can) "Redgate Tomatoes * * * Contents---- 1 lb. Can Size----- No. 303 * * * Distributor Colonial Stores Incorporated General Office Atlanta, Georgia."

LIBELED: 10-19-56, E. Dist. Va.

CHARGE: 402 (a) (3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 12-5-56. Default—destruction.

23713. Canned tomatoes. (F. D. C. No. 39664. S. Nos. 47-108/9 M.)

QUANTITY: 37 cases, each containing 24 #303 cans; 18 cases, each containing 24 #2½ cans; and 31 cases, each containing 48 10-ounce cans, at Philadelphia, Pa.

SHIPPED: 1-31-56 and 3-21-56, from Crisfield and Federalsburg, Md.

LIBELED: 11-5-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed tomatoes while held for sale.

DISPOSITION: 12-5-56. Default—destruction.

23714. Pizza sauce. (F. D. C. No. 39717. S. No. 47-271 M.)

QUANTITY: 23 cases, 6 cans each, at Trenton, N. J.

SHIPPED: 3-30-56, from Snow Hill, Md., by Italian Style Tomato Packers, Inc.

LABEL IN PART: (Can) "Lulu Brand * * * Prepared Pizza Sauce * * * Contents 6 lbs. 6 ozs. * * * Distributed by Namrod Trading Co., New York, New York."

LIBELED: 12-11-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 1-8-57. Default—destruction.

NUTS

23715. Unshelled almonds. (F. D. C. No. 39579. S. No. 33-413 M.)

QUANTITY: 10 25-lb. bags at Grand Island, Nebr.

SHIPPED: 10-13-55, from Sacramento, Calif.

LIBELED: 9-25-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine while held for sale.

DISPOSITION: 10-16-56. Consent—destruction.

23716. Shelled brazil nuts. (F. D. C. No. 39569. S. No. 56-369 M.)

QUANTITY: 30 cases, 2 33-lb. tins each, and 43 33-lb. cases, at Minneapolis, Minn.

SHIPPED: 7-24-56, from New York, N. Y.

LIBELED: 9-19-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects and insect-infested nuts while held for sale.

DISPOSITION: 9-26-56. Consent—claimed by Johnson Nut Co., Minneapolis, Minn. Segregated; 18 lbs. destroyed.

23717. Unshelled brazil nuts. (F. D. C. No. 39805. S. No. 9-800 M.)

QUANTITY: 35 50-lb. sacks at Minneapolis, Minn.

SHIPPED: 11-13-56, from Chico, Calif., by Continental Nut Co.

LABEL IN PART: (Sack) "Blue Ribbon Brand Brazils * * * Shells Artificially Bleached and Colored."

LIBELED: 12-7-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained moldy and otherwise decomposed nuts when shipped.

DISPOSITION: 12-14-56. Consent—claimed by May Brothers Co., Minneapolis, Minn. Since salvaging was not successful, the entire amount seized was destroyed.

23718. Unshelled brazil nuts. (F. D. C. No. 39817. S. No. 65-363 M.)

QUANTITY: 37 cases, 20 1-lb. bags each, at Cleveland, Ohio.

SHIPPED: 11-17-55, from New York, N. Y.

LIBELED: 12-13-56, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained moldy, rancid, and shriveled nuts, and empty shells while held for sale.

DISPOSITION: 1-23-57. Default—destruction.

23719. Cashew nuts. (F. D. C. No. 39519. S. Nos. 40-664/5 M.)

QUANTITY: 18 25-lb. tins and 2 25-lb. tins at St. Paul, Minn.

SHIPPED: Between 6-19-56 and 7-9-56, from New York, N. Y.

LIBELED: 8-14-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insect-infested and insect-damaged nuts while held for sale.

DISPOSITION: 9-17-56. (18-tin lot) Consent—claimed by Zaloom Bros. Co., Inc., New York, N. Y. Segregated; 50 lbs. destroyed.

9-25-56. (2-tin lot) Default—consumption by animals.

23720. Shelled peanuts. (F. D. C. No. 39570. S. No. 48-873 M.)

QUANTITY: 113 120-lb. bags at Milwaukee, Wis.

SHIPPED: 8-29-56, from Marianna, Fla., by Marianna Peanut Co.

LABEL IN PART: "This Bag Contains Shelled Runner No. 1 Peanuts Florispan."

LIBELED: 9-18-56, E. Dist. Wis.

CHARGE: 402 (a) (3)—contained insects and insect-damaged nuts when shipped.

DISPOSITION: 10-12-56. Consent—claimed by Marianna Peanut Co. Denatured for use as animal feed.

23721. Unshelled peanuts. (F. D. C. No. 39567. S. Nos. 56-970 M, 57-170 M.)

QUANTITY: 80 100-lb. bags and 25 25-lb. bags at Macon, Ga.

SHIPPED: 5-9-56, from Suffolk, Va.

LIBELED: 9-14-56, M. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-7-56. Default—destruction.

23722. Shelled Spanish peanuts. (F. D. C. No. 39858. S. Nos. 71-971/3 M.)

QUANTITY: 309 120-lb. bags and 204 125-lb. bags at Chicago, Ill.

SHIPPED: 8-17-56, from Camilla, Ga., by Camilla Cotton Oil Co.

LIBELED: 1-30-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects, insect-damaged nuts, and decomposed nuts when shipped.

DISPOSITION: 4-1-57. Consent—claimed by Camilla Cotton Oil Co. Segregated; 44 120-lb. bags and 21 125-lb. bags of peanuts found unfit and converted to animal feed.

23723. Shelled pecans. (F. D. C. No. 39810. S. No. 55-809 M.)

QUANTITY: 5 cases, 10 5-lb. ctns. each, and 11 cases, 8 5-lb. ctns. each, at Bloomington, Ind.

SHIPPED: 5-10-56 and 5-17-56, from Valdosta, Ga., and Chicago, Ill.

LIBELED: On or about 1-16-57, S. Dist. Ind.

CHARGE: 402 (a) (3)—contained insects, insect webbing, and insect excreta while held for sale.

DISPOSITION: 3-27-57. Default—destruction.

23724. Unshelled pecans. (F. D. C. No. 39812. S. Nos. 33-586/7 M, 33-731 M, 58-110 M.)

QUANTITY: 96 50-lb. bags at Kansas City, Mo.

SHIPPED: 10-14-55, from Cairo, Ga.

LIBELED: 12-11-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent urine while held for sale.

DISPOSITION: 1-14-57. Consent—claimed by Georgia Pecan Co., Cairo, Ga. The article was brought into compliance with the law by washing.

23725. Pistachio nuts. (F. D. C. No. 39857. S. Nos. 61-866/7 M.)

QUANTITY: 47 164-lb. bags at New York, N. Y.

SHIPPED: Prior to 8-28-56, from Afghanistan.

LIBELED: 2-13-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects and decomposed nuts while held for sale.

DISPOSITION: 4-10-57. Consent—claimed by American Pistachio Corp., New York, N. Y. Segregated; 10 164-lb. bags destroyed.

POULTRY

23726. Dressed poultry. (F. D. C. No. 39682. S. Nos. 50-053/4 M.)

QUANTITY: 6 crates containing 235 lbs. and 4 crates containing 210 lbs. at Boston, Mass.

SHIPPED: 10-26-56, from Goffstown, N. H., by Karanikas & Sons.

LIBELED: 11-13-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained fecal matter; and 402 (a) (5)—contained diseased poultry.

DISPOSITION: 12-17-56. Default—destruction.

23727. Eviscerated poultry. (F. D. C. No. 39720. S. No. 50-059 M.)

QUANTITY: 219 crates, each containing from 18 to 28 birds, at Chelsea, Mass.

SHIPPED: 12-3-56, from Newport and Yarmouth, Maine.

RESULTS OF INVESTIGATION: The article was shipped as New York dressed poultry and was eviscerated at Chelsea, Mass.

LIBELED: 12-6-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained birds which were contaminated with fecal and gut material while held for sale.

DISPOSITION: 12-7-56. Consent—claimed by Glick Bros., Chelsea, Mass. The article was reconditioned by removal of gut fragments and other edible portions and by a thorough washing and cleaning of each bird.

23728. Dressed chickens. (F. D. C. No. 39819. S. No. 41-189 M.)

QUANTITY: 1,100 lbs. at Minneapolis, Minn.

SHIPPED: 12-1-56, from Greensboro, Ala., by Massengale Poultry Co., Inc.

LABEL IN PART: "Lady Aster * * * Finest Chicken From The South."

LIBELED: 12-14-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained fecal matter when shipped.

DISPOSITION: 1-28-57. Default—consumption by animals.

23729. Frozen dressed chickens. (F. D. C. No. 38657. S. No. 883 M.)

QUANTITY: 68 crates, 8 chickens each, and 49 crates, 6 chickens each, at Jacksonville, Fla.

SHIPPED: 10-8-55, from Griffin, Ga., by McKibbon Bros., Inc.

LABEL IN PART: (Bag) "Georgia Grade A Dressed and Drawn Oven Ready Fowl Fresh Frozen Eviscerated Style * * * Quality Poultry Co., Griffin, Georgia."

LIBELED: 11-1-55, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained fecal matter; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 12-8-55. Claimed by Quality Poultry Co. and converted to animal feed.

23730. Dressed turkeys. (F. D. C. No. 39710. S. No. 37-280 M.)

QUANTITY: 214 lbs. in 4 crates at New York, N. Y.

SHIPPED: 11-16-56, from Charlotte, N. C., by Hanline Poultry Co., Inc.

LIBELED: 12-26-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained fecal and crop material when shipped; and 402 (a) (5)—contained diseased turkeys.

DISPOSITION: 1-24-57. Default—a portion of the article was delivered to the Food and Drug Administration and the remainder destroyed.

SPICES, FLAVORS, AND SEASONING MATERIALS

23731. Angelica root. (F. D. C. No. 39670. S. No. 37-305 M.)

QUANTITY: 8 140-lb. bales at Brooklyn, N. Y.

SHIPPED: 2-20-56, from Belgium.

LIBELED: 11-14-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained moldy angelica root while held for sale.

DISPOSITION: 11-26-56. Consent—claimed by Karl H. Landes & E. Balint, Inc., New York, N. Y. Segregated; 166 lbs. destroyed.

23732. Fennel seed. (F. D. C. No. 39666. S. Nos. 59-952/3 M.)

QUANTITY: 45 bags, 100 lbs. each, and 1 drum, containing 164 lbs., at Chicago, Ill.

SHIPPED: 3-6-56, from Brooklyn, N. Y., by Morris J. Golombeck, Inc.

LIBELED: 11-5-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent excreta and insect-damaged seed when shipped.

DISPOSITION: 11-28-56. Default—destruction.

23733. Fennel seed. (F. D. C. Nos. 39580, 39583. S. Nos. 33-427/8 M.)

QUANTITY: 1,000 lbs. in 6 drums and 6 100-lb. bags at Omaha, Nebr.

SHIPPED: 8-28-56 and 9-10-56, from Milwaukee, Wis.

LIBELED: 9-27-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained rodent excreta, insects, insect parts, and insect-damaged seed while held for sale.

DISPOSITION: 10-19-56. Consent—destruction.

23734. Chili peppers. (F. D. C. No. 39700. S. No. 37-313 M.)

QUANTITY: 69 80-lb. bags at New York, N. Y.

SHIPPED: During 1955, from Nigeria.

LIBELED: 11-30-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-4-57. Default—destruction.

23735. Chilies. (F. D. C. No. 39704. S. Nos. 37-314/8 M.)

QUANTITY: 681 80-lb. bags at New York, N. Y.

SHIPPED: During 1955, from Nigeria.

LIBELED: 11-28-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-20-56. Consent—claimed by John Holt & Co., Inc., New York, N. Y. Reconditioning operations were unsuccessful, and the article was destroyed.

23736. Chilies. (F. D. C. No. 39713. S. No. 37-319 M.)

QUANTITY: 208 80-lb. bags at Brooklyn, N. Y.

SHIPPED: During 1955, from Nigeria.

LIBELED: 12-7-56, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-14-57. Consent—claimed by John Holt & Co., Inc., New York, N. Y. Reconditioning operations were unsuccessful, and the article was destroyed.

23737. Paprika, poultry seasoning, and chili powder. (F. D. C. No. 39677. S. Nos. 28-856/8 M.)

QUANTITY: 367 pkgs. of paprika, 132 pkgs. of poultry seasoning, and 235 pkgs. of chili powder at Fort Ord, Calif.

SHIPPED: 9-4-56, from Dallas, Tex., by Arrow Spice and Food Co.

LABEL IN PART: "Arrow Brand Net Wt. 4 Oz. * * * Pure Paprika [or "Poultry Seasoning" or "Pure Chili Powder"]."

LIBELED: 11-16-56, N. Dist. Calif.

CHARGE: Paprika and chili powder. 402 (a) (3)—contained insects; and 402 (a) (4)—packed under insanitary conditions.

Poultry seasoning and paprika. 403 (e) (2)—the articles, when shipped, failed to bear labels containing accurate statements of the quantities of contents (the articles were short weight).

DISPOSITION: 12-4-56. Default—destruction.

23738. Salad mix. (F. D. C. No. 39689. S. No. 28-002 M.)

QUANTITY: 10 cases, 12 1-pint jars each, at Panama City, Fla.

SHIPPED: 6-9-56, from Crowley, La., by C. Derousselle.

LABEL IN PART: (Jar) "Tiffe's Wop Salad Mix."

LIBELED: On or about 11-16-56, N. Dist. Fla.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 1-16-57. Default—destruction.

23739. Salad mix. (F. D. C. No. 39685. S. No. 58-389 M.)

QUANTITY: 7 cases, 12 jars each, at Albuquerque, N. Mex.

SHIPPED: 5-9-56, from Crowley, La., by Tiffe's Fine Food Products.

LABEL IN PART: (Jar) "Tiffe's Wop Salad Mix * * * Contents 1 pint."

LIBELED: 11-26-56, Dist. N. Mex.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 12-27-56. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

23740. Vitamin and mineral tablets. (F. D. C. No. 39722. S. No. 57-482 M.)

QUANTITY: 1 drum containing 19,000 tablets at Atlanta, Ga.

SHIPPED: 8-30-56, from Greenville, S. C.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 50 percent of the declared amount of vitamin D.

LIBELED: 12-12-56, N. Dist. Ga.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each 2 tablets * * * Vitamin D 800 Units" was false and misleading.

DISPOSITION: 1-15-57. Default—destruction.

23741. McNess multivitamin and mineral tablets. (F. D. C. No. 39233. S. No. 19-901 M.)

QUANTITY: 158 100-tablet btls. at Baltimore, Md.

SHIPPED: 3-14-56, from Freeport, Ill., by Furst-McNess Co.

LABEL IN PART: (Btl.) "McNess Multi-Vitamin and Mineral Tablets 100 High Potency Tablets Three tablets contain: * * * Vitamin C 30 milligrams * * * As a dietary supplement."

RESULTS OF INVESTIGATION: Analysis showed that the article contained 54 percent of the declared amount of vitamin C.

LIBELED: On or about 5-14-56, Dist. Md.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin C, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label

statement "Three tablets contain: * * * Vitamin C 30 milligrams" was false and misleading.

DISPOSITION: 6-7-56. Default—destruction.

23742. Vi-Tab vitamin and mineral tablets. (F. D. C. No. 39257. S. No. 39-038 M.)

QUANTITY: 696 60-tablet btls. at Charlotte, N. C.

SHIPPED: 8-3-55, from Jackson, Miss., by Bonded Distributing Co., Inc.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 75 percent of the declared amount of vitamin B₁.

LIBELED: 5-28-56, W. Dist. N. C.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "Two Tablets Daily Provide at Least * * * Vitamin B₁ * * * 3 times Minimum Daily Requirements * * * 3 mgs." was false and misleading.

The article was alleged also to be misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 5157.

DISPOSITION: 7-23-56. Default—destruction.

23743. Thyavals capsules. (F. D. C. No. 39047. S. No. 35-463 M.)

QUANTITY: 1 btl. of 210 capsules, 70 90-capsule btls., 9 75-capsule btls., and 1 btl. of 30 capsules, at Richmond, Ind.

SHIPPED: During 1951, from Chicago, Ill.

LIBELED: 5-18-56, S. Dist. Ind.

CHARGE: 402 (b) (1)—valuable constituents, vitamin B₁ and Vitamin C, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statements "Each Capsule * * * Fortified With Vitamin B-1 * * * 15,000 Mcg. (15 Mg.) * * * Vitamin C * * * 1,000 USP Units (50 Mg.)" were false and misleading.

DISPOSITION: 9-14-56. Default—destruction.

23744. Kelpamalt tablets. (F. D. C. No. 39047. S. No. 35-464 M.)

QUANTITY: 49 200-tablet btls. at Richmond, Ind.

SHIPPED: During 1952, from Long Island City, N. Y.

LIBELED: 5-18-56, S. Dist. Ind.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each tablet contains 67 micrograms (22.2 USP units) of vitamin B-1 as thiamine" was false and misleading.

DISPOSITION: 9-19-56. Default—destruction.

23745. Vitarich tablets and Vitanate tablets. (F. D. C. No. 39314. S. Nos. 28-411/12 M, 28-597 M.)

QUANTITY: 2 1,000-tablet btls. and 191 100-tablet btls. of Vitarich tablets and 47 200-tablet btls. of Vitanate tablets at Chicago, Ill.

SHIPPED: 6-6-56, from San Francisco, Calif.

RESULTS OF INVESTIGATION: Analyses showed that a portion of the Vitarich tablets contained less than 82 percent of the declared amount of vitamin B₁; that another portion of the Vitarich tablets contained only 59 percent of the

declared amount of vitamin A; and that the Vitamate tablets contained less than 75 percent of the declared amount of vitamin B₁.

LIBELED: 7-27-56, N. Dist. Ill.

CHARGE: 402 (b) (1)—valuable constituents, vitamin A and vitamin B₁, had been in part omitted or abstracted from the articles while held for sale; and 403 (a)—the label statements (Vitarich tablets) "Vitamin B₁ * * * 1,000 U. S. P. Units" and "Vitamin A (Ester) * * * 5,000 U. S. P. Units" and (Vitamate tablets) "Each tablet contains * * * Vitamin B₁ * * * 0.167 mg." were false and misleading as applied to articles which contained less than the stated amounts of vitamin A and vitamin B₁ while held for sale.

DISPOSITION: 10-10-56. Default—distributed to charitable institutions.

23746. Vitamin B complex capsules. (F. D. C. No. 39564. S. No. 41-059 M.)

QUANTITY: 4,900 capsules at La Crosse, Wis.

SHIPPED: Prior to July 1954, from Indianapolis, Ind.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than the declared amount of vitamin B₁.

LIBELED: 9-17-56, W. Dist. Wis.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Pulvule contains * * * Vitamin B₁ 3 mg" was false and misleading.

DISPOSITION: 10-10-56. Default—destruction.

23747. Winley Wafers. (F. D. C. No. 39745. S. No. 59-110 M.)

QUANTITY: 59 250-tablet btls. and 47 500-tablet btls. at Philadelphia, Pa.

SHIPPED: 5-5-52 and 11-24-52, from Chicago, Ill.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 75 percent of the declared amount of vitamin B₁.

LIBELED: 1-4-57, E. Dist. Pa.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "(24 wafers) will supply * * * Thiamine Hydrochloride * * * 1.8 mg." was false and misleading.

DISPOSITION: 2-27-57. Default—destruction.

23748. Iron-D tablets. (F. D. C. No. 39624. S. No. 50-976 M.)

QUANTITY: 25 1,000-tablet bottles at Los Angeles, Calif.

SHIPPED: Prior to 6-5-52, from Philadelphia, Pa.

LIBELED: 11-13-56, S. Dist. Calif.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Tablet Contains: * * * Vitamin D * * * 300 Units" was false and misleading.

DISPOSITION: 12-10-56. Default—destruction.

23749. Hadacol. (F. D. C. No. 39619. S. No. 30-857 M.)

QUANTITY: 186 bottles, 8-fluid ounces each, at Owensboro, Ky.

SHIPPED: Prior to September 1955, from Lafayette, La.

LIBELED: 11-2-56, W. Dist. Ky.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement “Contain the Vitamin B₁ * * * 6 mg.” was false and misleading.

DISPOSITION: 1-28-57. Default—destruction.

23750. Hadacol. (F. D. C. No. 39480. S. No. 43-270 M.)

QUANTITY: 183 cartons, 12 24-oz. btls. each, at West Memphis, Ark.

SHIPPED: 8-5-55, from Indianapolis, Ind.

LIBELED: 10-3-56, E. Dist. Ark.

CHARGE: 402 (b) (1)—valuable constituents, thiamine and riboflavin, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement “Contains the Vitamin B₁ (Thiamin Hydrochloride) . . . 6 mg. B-2 (Riboflavin) . . . 4 mg.” was false and misleading.

DISPOSITION: 11-6-56. Default—destruction.

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¹ (23665) Seizure contested. Contains opinions of the court.

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¹ (23665) Seizure contested. Contains opinions of the court.

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Colonial Stores, Inc. :		Leonard, I. L., & Co. :	
canned tomatoes-----	23712	oysters-----	23698
Colony Foods, Inc. :		McKibbon Bros., Inc. :	
sweet India relish-----	23710	frozen dressed chickens-----	23729
Continental Nut Co. :		Mance, Robert :	
unshelled brazil nuts-----	23717	canned tomatoes-----	23711
Cuvi, Rocca, Inc. :		Marianna Peanut Co. :	
rice-----	23671	shelled peanuts-----	23720
Derousselle, C. :		Marketing Association of Amer-	
salad mix-----	23738	ica :	
Devonsheer Melba Corp. :		butter-----	23684
bread crumbs-----	23654	Massengale Poultry Co., Inc. :	
Dryden, Carol, & Co., Inc. :		dressed chickens-----	23728
oysters-----	23699	Namrod Trading Co. :	
Economou, Costas :		pizza sauce-----	23714
grated cheese-----	23687	Napoleon Creamery. <i>See</i> Kohl-	
Economou Cheese Corp. :		man, Leonard.	
grated cheese-----	23687	Olson, A. L. :	
Franklin Novelties Corp. :		butter-----	23684
candy-----	23682	Pacific International Rice Mills,	
Furst-McNess Co. :		Inc. :	
McNess multivitamin and min-		rice-----	23671
eral tablets-----	23741	Peters, Paul, Co. :	
Golombeck, Morris J., Inc. :		grated cheese-----	23687
fennel seed-----	23732	Pick-Shapiro Fisheries, Inc. :	
Good Canning Co. :		frozen fish-----	23691
canned pinto beans-----	23707	Pinto, Frank :	
Hanline Poultry Co., Inc. :		bread crumbs-----	23654
dressed turkeys-----	23730	Quality Poultry Co. :	
Henderson, James :		frozen dressed chickens-----	23729
cakes and pies-----	23651	Riddle, R. D. :	
Italian Style Tomato Packers,		Bismarcks (bakery product),	
Inc. :		cherry pie, and apple pie----	23652
pizza sauce-----	23714	St. Anthony Flour Mills :	
K-B Products Corp. :		flour-----	23657
canned mushrooms-----	23708	Sask. Fish Marketing Service :	
Karanikas & Sons :		frozen whitefish-----	23696, 23697
dressed poultry-----	23726	Schaefer, R. W. :	
Kincaid, J. T. :		menhaden fish meal-----	23688
flour-----	23655		

	N. J. No.		N. J. No.
Schaefer Feed Co.:		Sun Warehouses, Inc.:	
menhaden fish meal-----	23688	rice-----	23672
Schreiber, L. D., & Co., Inc.:		Tiffe's Fine Food Products:	
butter-----	23684	salad mix-----	23739
Sexton, John, & Co.:		Tynch, M. J., Fish Co.:	
farina, rice, and flour-----	23677	salt herring-----	23693
Sharp Milling Co.:		Weil, Bert:	
Cattle Range Wafers-----	23690	bread crumbs-----	23654
Sisk, A. W., & Son:		Weinenger, Joseph:	
canned tomatoes-----	23712	sweet mixed pickles-----	23709
Slocum-Bergren Co.:		West Martinsburg Cheese Fac-	
rice-----	23676	tory. <i>See</i> Alexander, W. J.	
Society Food Products Co. <i>See</i>		West Side Warehouse:	
Weinenger, Joseph.		flour -----	23656
Southern Biscuit Co., Inc.:			
pumpnickel rye meal-----	23678		

U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23751-23850

FOODS

LIBRARY

CURRENT SERIAL RECORD

★ SFP 2 - 1958 ★

U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent; and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation; and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., August 7, 1958.

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*SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23751-23850*

Adulteration, Section 402 (a) (2), the article was a raw agricultural commodity and contained a pesticide chemical which is unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance or was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity, and no tolerance or exemption from the requirement of a tolerance for such pesticide in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of contents; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses.

Oleomargarine, Section 407 (c), colored oleomargarine or colored margarine was served at a public eating place, and each separate serving neither bore, nor was accompanied by, labeling identifying it as oleomargarine or margarine, and it was not triangular in shape.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23751. Pumpernickel bread. (F. D. C. No. 39381. S. No. 45-872 M.)

INFORMATION FILED: 1-15-57, Dist. N. J., against Polish Baking Co., a corporation, Camden, N. J., and Leon Glowacki, president, and Stephen Glowacki, vice president.

SHIPPED: 7-3-56, from New Jersey to Pennsylvania.

LABEL IN PART: (Loaf) "Pumpernickle Bread."

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-21-57. Corporation—\$500 fine; individuals placed on probation for 3 years, to be supervised by the Food and Drug Administration.

23752. Bread sticks. (F. D. C. No. 39968. S. No. 50-037 M.)

INFORMATION FILED: 6-5-57, Dist. Conn., against Joseph Spinella, manager of Spinella Bakery, Hartford, Conn.

SHIPPED: 10-29-56, from Connecticut to Massachusetts.

LABEL IN PART: (Pkg.) "Spinella's Butter Crust Bread Sticks."

CHARGE: 402 (a) (3)—contained insect parts; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 6-24-57. \$100 fine, plus costs.

CORNMEAL**23753. Cornmeal.** (F. D. C. No. 39983. S. No. 33-344 M.)

INDICTMENT RETURNED: 9-4-57, N. Dist. Okla., against Griffin Grocery Co., a corporation, Tulsa, Okla.

ALLEGED VIOLATION: Between 10-19-56 and 11-28-56, while a quantity of cornmeal was being held for sale after shipment in interstate commerce, the defendant caused the article to be placed in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402 (a) (3)—contained rodent excreta; and 402 (a) (4)—held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 10-18-57. \$750 fine.

FLOUR**23754. Flour.** (F. D. C. No. 39949. S. Nos. 63-619/21 M.)

QUANTITY: 31 100-lb. bags and 19 50-lb. bags at Denver, Colo., in possession of Institutional Distributors.

SHIPPED: Between 12-22-56 and 1-25-57, from Sheridan, Wyo., and Ogden, Utah.

LIBELED: 2-18-57, Dist. Colo.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-5-57. Default—consumption by animals.

23755. Flour. (F. D. C. No. 39732. S. No. 38-993 M.)

QUANTITY: 153 25-lb. bags at Columbia, S. C., in possession of Thomas & Howard Co.

SHIPPED: 9-27-56, from Johnson City, Tenn.

LIBELED: 12-21-56, E. Dist. S. C.

CHARGE: 402 (a) (3)—contained rodent urine and rodent and bird excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 2-7-57. Consent—consumption by animals.

23756. Flour. (F. D. C. No. 39928. S. No. 63-681 M.)

QUANTITY: 24 50-lb. bags at Rawlins, Wyo.

SHIPPED: 10-16-56, from Ogden, Utah.

LIBELED: 1-29-57, Dist. Wyo.

CHARGE: 402 (a) (3)—contained rodent hairs and rodent urine while held for sale.

DISPOSITION: 3-18-57. Default—destruction.

23757. Flour and rice. (F. D. C. No. 39967. S. Nos. 20-831 M, 57-990 M, 57-994 M.)

INFORMATION FILED: 3-29-57, W. Dist. Mo., against Hershey Wholesale Grocery Co., North Kansas City, Mo., and James E. Dreiling, warehouse superintendent for the corporation.

ALLEGED VIOLATION: Between 7-31-56 and 10-12-56, while quantities of flour and rice were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402 (a) (3)—contained rodent excreta; and 402 (a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-3-57. Fine of \$500 against defendants jointly.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

23758. Unpopped popcorn. (F. D. C. No. 39932. S. No. 41-925 M.)

QUANTITY: 24 100-lb. bags at Albany, N. Y.

SHIPPED: 1-20-56, from Dixon, Ill.

LIBELED: 1-31-57, N. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 3-1-57. Default—destruction.

23759. Unpopped popcorn. (F. D. C. No. 39914. S. No. 59-601 M.)

QUANTITY: 10 100-lb. bags at Clarks Hill, Ind.

SHIPPED: 8-11-56, from Mendota, Ill., by Valentine Tidswell & Son.

RESULTS OF INVESTIGATION: Inspection of the establishment of Arthur Foulk, Mendota, Ill., where the article had been stored prior to shipment, showed the existence of insanitary conditions.

LIBELED: 1-17-57, N. Dist. Ind.

CHARGE: 402 (a) (3)—contained rodent excreta, insects, and mold; and 402 (a) (4)—prepared, packed, and held under insanitary conditions.

DISPOSITION: 3-22-57. Default—destruction.

23760. Unpopped popcorn. (F. D. C. No. 39905. S. No. 55-540 M.)

QUANTITY: 20 50-lb. bags at Cincinnati, Ohio.

SHIPPED: 8-15-56, from Princeton, Ind.

LIBELED: On or about 1-7-57, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-4-57. Default—consumption by animals.

*See also No. 23757.

23761. Rice. (F. D. C. No. 39936. S. No. 24-147 M.)

QUANTITY: 114 100-lb. bags at Los Angeles, Calif., in possession of Sunshine Specialties Products Co.

SHIPPED: Between 11-6-56 and 1-10-57, from Houston, Tex.

LIBELED: 2-5-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 2-28-57. Consent—claimed by Sunshine Specialties Products Co. Segregated; 163 lbs. destroyed.

23762. Rice (2 seizure actions). (F. D. C. No. 39777. S. Nos. 58-682 M and 58-796 M.)

QUANTITY: 76 100-lb. bags and 14 50-lb. bags at Salt Lake City, Utah.

SHIPPED: 11-16-55 and 12-28-55, from Stuttgart, Ark., and South Dos Palos, Calif.

LIBELED: 11-27-56, Dist. Utah.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-20-56. Consent—claimed by Saku Nagasawa, Salt Lake City, Utah. Segregated and cleaned; 440 lbs. destroyed.

23763. Rice. (F. D. C. No. 39955. S. No. 56-435 M.)

QUANTITY: 70 100-lb. bags at Sioux Falls, S. Dak., in possession of Sioux Distributing Co.

SHIPPED: Between 12-21-55 and 10-22-56, from Stuttgart, Ark.

LIBELED: 2-21-57, Dist. S. Dak.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-9-57. Default—destruction.

23764. Rice. (F. D. C. No. 39880. S. No. 61-028 M.)

QUANTITY: 65 100-lb. bags at Cambridge, Mass., in possession of Hung's Food Products, Inc.

SHIPPED: 11-26-56 and 12-10-56, from Houston, Tex.

LIBELED: 2-28-57, Dist. Mass.; amended libel 3-12-57.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-30-57. Default—consumption by animals.

23765. Rice. (F. D. C. No. 39952. S. No. 56-559 M.)

QUANTITY: 34 100-lb. bags at Duluth, Minn., in possession of Chun King Sales, Inc.

SHIPPED: 12-19-56, from Houston, Tex.

LIBELED: 2-20-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-4-57. Default—consumption by animals.

23766. Rice. (F. D. C. No. 39924. S. No. 53-054 M.)

QUANTITY: 10 bales, 48 1-lb. bags each, 7 bales, 30 2-lb. bags each, and 28 bales, 20 3-lb. bags each, at Hattiesburg, Miss.

SHIPPED: Between 6-5-56 and 12-10-56, from Kaplan, La., by Kaplan Rice Mill, Inc.

LABEL IN PART: "Kap-Mill * * * Short Grain Rice."

LIBELED: 1-24-57, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 2-26-57. Default—destruction.

23767. Rice. (F. D. C. No. 39942. S. No. 71-922 M.)

QUANTITY: 136 25-lb. bags at South Bend, Ind., in possession of Columbia Storage Warehouse.

SHIPPED: 2-17-56, from Stuttgart, Ark.

LIBELED: 2-7-57, N. Dist. Ind.

CHARGE: 402 (a) (3)—contained rodent urine and rodent pellets; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-8-57. Default—consumption by animals.

23768. Wheat. (F. D. C. No. 39910. S. No. 56-422 M.)

QUANTITY: 120,000 lbs. at Minneapolis, Minn.

SHIPPED: 12-15-56, from Tioga, N. Dak., by O. A. Nelson Elevator Co.

LIBELED: 1-3-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 1-16-57. Consent—claimed by O. A. Nelson, Tioga, N. Dak., and reconditioned by coloring the wheat for use as seed wheat.

23769. Wheat. (F. D. C. No. 39621. S. No. 64-962 M.)

QUANTITY: 98,000 lbs. at Bremen, Ind.

SHIPPED: 10-27-56, from Toledo, Ohio. This was a return shipment.

LIBELED: 11-7-56, N. Dist. Ind.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 12-7-56. Consent—claimed by Bremen Elevator Co., Bremen, Ind., and used in the manufacture of glue.

23770. Wheat. (F. D. C. No. 39937. S. No. 41-155 M.)

QUANTITY: 67,340 lbs. at Minneapolis, Minn.

SHIPPED: 10-9-56, from Midland, S. Dak., by Midland Grain & Lumber Co.

LIBELED: 2-5-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat had been prescribed by regulations.

DISPOSITION: 2-26-57. Consent—claimed by Great Plains Supply Co., St. Paul, Minn. Reconditioned; 12,420 lbs. destroyed.

DAIRY PRODUCTS

BUTTER

23771. Butter. (F. D. C. No. 39788. S. No. 41-207 M.)

QUANTITY: 412 64-lb. ctns. at Aberdeen, S. Dak.

SHIPPED: 10-24-56, from Lima, Ohio. This was a return shipment.

LABEL IN PART: (Ctn.) "Butter Equity Union Crys. 301 Distributors" or "Butter Equity Cry."

LIBELED: 11-30-56, Dist. S. Dak.

CHARGE: 402 (a) (3)—contained decomposed butter while in interstate commerce.

DISPOSITION: 12-13-56. Consent—claimed by Equity Union Creameries, Inc., Aberdeen, S. Dak. Segregated; 13,456 lbs. destroyed.

CHEESE

23772. Chive cottage cheese. (F. D. C. No. 39337. S. No. 41-622 M.)

INFORMATION FILED: 11-8-56, N. Dist. N. Y., against Sunny Brook Creamery, Inc., Union Springs, N. Y., and James M. Gregory, plant manager.

SHIPPED: 4-16-56, from New York to Massachusetts.

LABEL IN PART: (Cup) "Sunny Brook Chive Pasteurized 12 oz. Cottage Cheese Manufactured and Distributed by Sunny Brook Creamery, Inc. * * * Union Springs, N. Y."

CHARGE: 402 (a) (3)—filth-contaminated milk was used in the preparation of the article; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 1-16-57. Corporation—\$500 fine; individual—\$200 fine.

23773. Process cheese spread. (F. D. C. No. 39784. S. No. 33-453 M.)

QUANTITY: 59 cases, 12 2-lb. packages each, at Omaha, Nebr.

SHIPPED: 2-13-56, from Shelbyville, Ill.

LIBELED: 11-30-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained moldy cheese spread while held for sale.

DISPOSITION: 1-3-57. Default—consumption by animals.

MILK

23774. Condensed skim milk. (F. D. C. No. 39991. S. No. 47-596 M.)

INFORMATION FILED: 3-27-57, N. Dist. N. Y., against Borden Co., a corporation, Gouverneur, N. Y., and Albert E. Boughner, plant manager.

SHIPPED: 6-11-56, from New York to New Jersey.

CHARGE: 402 (a) (3)—contained insect fragments, rodent hair fragments, and manure fragments, and filth-contaminated milk was used in the preparation of the article.

PLEA: Guilty.

DISPOSITION: 5-6-57. Corporation fined \$700 and individual \$50.

EGGS

23775. Frozen eggs. (F. D. C. No. 38613. S. No. 30-058 M.)

INFORMATION FILED: 8-6-56, M. Dist. Tenn., against Albert Mann, t/a National Egg Co., Nashville, Tenn.

SHIPPED: 6-18-55, from Tennessee to New York.

LABEL IN PART: (Can) "30 Lbs. Net Frozen Whole Eggs Distributed by Glasgow Food Corp. New York, N. Y."

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

PLEA: Guilty.

DISPOSITION: 3-8-57. \$250 fine.

23776. Frozen eggs. (F. D. C. No. 39900. S. No. 42-042 M.)

QUANTITY: 400 30-lb. cans at Rochester, N. Y.

SHIPPED: 12-4-56, from Chicago, Ill., by Armour & Co.

LABEL IN PART: "Frozen Whole Eggs * * * Armour Cloverbloom."

LIBELED: 12-21-56, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 2-28-57. Consent—claimed by Armour & Co. Segregated; 69 30-lb. cans destroyed.

23777. Frozen eggs. (F. D. C. No. 39739. S. No. 66-880 M.)

QUANTITY: 250 30-lb. cans at Washington, D. C.

SHIPPED: 12-18-56, from Baltimore, Md., by Supreme Products Co.

LABEL IN PART: "Supreme Products Frozen Eggs."

LIBELED: 12-27-56, Dist. of Columbia.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 2-7-57. Consent—claimed by Supreme Products Co. Segregated; 25 cans disposed of for use as animal feed.

23778. Egg yolk solids. (F. D. C. No. 39881. S. Nos. 50-149/50 M.)

QUANTITY: 4 120-lb. drums at Hartford, Conn.

SHIPPED: 1-2-57, from Arlington, Mass., by National Products, Inc.

LABEL IN PART: "Baker's Pride Brand Egg Yolk Solids."

LIBELED: 3-7-57, Dist. Conn.

CHARGE: 402 (b) (2)—a mixture of egg yolk solids and other ingredients had been substituted for egg yolk solids when shipped; 403 (a)—the label statement "Egg Yolk Solids" was false and misleading as applied to a product which contained also other ingredients; and 403 (g) (1)—the article failed to conform to the definition and standard of identity for dried egg yolks since the article contained less than 95 percent of total egg solids, together with other ingredients.

DISPOSITION: 7-9-57. Consent—claimed by Kenneth Kohler, Arlington, Mass., and relabeled.

FISH AND SHELLFISH

23779. Smoked tullibees. (F. D. C. No. 39837. S. No. 56-394 M.)

INFORMATION FILED: 7-1-57, Dist. Minn., against Booth Fisheries Corp., Minneapolis, Minn.

ALLEGED VIOLATION: On 11-1-55, the defendant gave to a firm engaged in the business of shipping fish, in interstate commerce, a guaranty to the effect that any food shipped by the defendant under the guaranty would not be adulterated or misbranded.

On 10-22-56, the defendant caused to be shipped to the holder of the guaranty, at Hopkins, Minn., a quantity of fish which was adulterated.

LABEL IN PART: "5 Lbs. Net When Packed Fancy Hickory Smoked Tullibees."

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

PLEA: Guilty.

DISPOSITION: 7-16-57. \$350 fine.

23780. Ocean perch fillets. (F. D. C. No. 39751. S. No. 60-925 M.)

QUANTITY: 18 50-lb. ctns. at Boston, Mass.

SHIPPED: The fillets were prepared and packed from fish caught in the waters of the Atlantic Ocean outside the limits of Massachusetts by the fishing vessel Ocean Wave, Inc. and landed at Boston, Mass., on 12-19-56.

LABEL IN PART: "Schooner Brand * * * Frosted Ocean Perch Fillets."

LIBELED: 1-8-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 1-30-57. Consent—claimed by Blue Sea Fish Co., Boston, Mass. Segregated; 20 lbs. destroyed.

23781. Canned tuna. (F. D. C. No. 39941. S. Nos. 54-078/9 M.)

QUANTITY: 6 cases, 24 6½-oz. cans each, at Billings, Mont.

SHIPPED: 2-13-56, from Terminal Island, Calif., by Star-Kist Foods, Inc.

LABEL IN PART: (Can) "Star-Kist Chunk Style Tuna * * * Dietetic Pack * * * Low in * * * Sodium Designed For Use in Weight Reduction Diets and For Use in Dietotherapy."

LIBELED: 2-7-57, Dist. Mont.

CHARGE: 403 (j)—the article purported to be and was represented for special dietary use by reason of its low sodium content, and, when shipped, the label failed to bear, as required by regulations, a statement of the number of milligrams of sodium per 100 grams of the article and a statement of the number of milligrams of sodium in an average serving of the article.

DISPOSITION: 5-7-57. Default—delivered to a charitable institution, for human consumption as an edible food but not for special dietary use.

23782. Crabmeat. (F. D. C. No. 39364. S. Nos. 20-359 M, 44-868/70 M.)

INDICTMENT RETURNED: 4-1-57, E. Dist. Va., against Lancaster Seafoods, Inc., Morattico, Va., and John Curlett, Jr., Secretary-Treasurer and plant manager.

SHIPPED: 6-14-56, from Virginia, to Maryland and the District of Columbia.

LABEL IN PART: (Can) "Backfin Crab Meat [or "Regular Crab Meat" or "Claw Crab Meat"] 1 lb. Net. Lancaster Seafoods, Inc., Morattico, Va."

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-17-57. Fine of \$500 against each defendant on one count of indictment; on remaining count, imposition of sentence against corporation suspended for 3 years and sentence of 6 months in prison against individual suspended also for 3 years.

23783. Crabmeat. (F. D. C. No. 39326. S. Nos. 765 M, 39-133 M.)

INFORMATION FILED: 7-27-56, N. Dist. Fla., against Eastpoint Seafood, a partnership, Eastpoint, Fla., and Frank A. Segree and Era M. Segree, partners.

SHIPPED: 4-20-56 and 4-24-56, from Florida to Maryland.

LABEL IN PART: (Can) "Eastpoint Seafood Fla 47C Crabmeat 1 lb. Net Eastpoint Fla."

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-13-57. Imposition of sentences suspended and defendants placed on probation for 2 years.

23784. Crabmeat. (F. D. C. No. 39406. S. No. 39-152 M.)

INFORMATION FILED: 3-12-57, N. Dist. Fla., against Marion F. Millender, t/a Millender & Sons Seafood, Eastpoint, Fla.

ALLEGED VIOLATION: On 7-16-56, the defendant gave to an individual engaged in the business of shipping crabmeat, in interstate commerce, a guaranty to the effect that crabmeat shipped by such defendant under the guaranty would not be adulterated or misbranded.

On 7-17-56, the defendant caused to be shipped to the holder of the guaranty, at Apalachicola, Fla., a quantity of crabmeat which was adulterated.

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-3-57. Imposition of sentence suspended and defendant placed on probation for 2 years.

23785. Crabmeat. (F. D. C. No. 39959. S. No. 39-542 M.)

INFORMATION FILED: 3-15-57, N. Dist. Fla., against Xuripha Gilbert Miller, plant manager for Houston Miller Seafoods, Eastpoint, Fla.

ALLEGED VIOLATION: On 7-16-56, the defendant caused to be given to a firm engaged in the business of shipping crabmeat, in interstate commerce, a guaranty to the effect that each shipment of crabmeat by Houston Miller Seafoods to the holder of the guaranty would be neither adulterated nor misbranded within the meaning of the Federal Food, Drug, and Cosmetic Act.

On 7-17-56, the defendant caused to be shipped a number of cans of adulterated crabmeat to the holder of the guaranty at Apalachicola, Fla.

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-29-57. The defendant was placed on probation for 2 years.

23786. Oysters. (F. D. C. No. 39764. S. Nos. 66-866/7 M.)

QUANTITY: 50 ctns., 12 12-oz. cans each, at Altoona, Pa.

SHIPPED: 11-9-56, from Baltimore, Md., by Seacoast Oyster Co., Inc.

LABEL IN PART: (Can) "Pride of Chesapeake Bay Frozen Oysters."

LIBELED: 11-15-56, W. Dist. Pa.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 11-27-56. Default—given to a charitable institution.

23787. Oysters. (F. D. C. Nos. 39791, 39792. S. Nos. 27-577/8 M.)

QUANTITY: 3,300 pts. at Houston, Tex.

SHIPPED: 11-25-56, from Amite, La., by Amite Oyster House.

LABEL IN PART: "Amite Brand Fresh Shucked Oysters."

LIBELED: 11-27-56, S. Dist. Tex.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 11-30-56. Consent—delivered to charitable organizations for their use.

23788. Oysters. (F. D. C. No. 39771. S. Nos. 45-047/8 M.)

QUANTITY: 5 bbls., 200 cans each, at Springfield, Ohio.

SHIPPED: 11-17-56, from Crisfield, Md., by Metompkin Bay Oyster Co.

LABEL IN PART: (Can) "Oysters Standards (or Selects) 12 fl. oz. Fresh Oysters * * * Md. 220."

RESULTS OF INVESTIGATION: Examination showed that the article was short volume, i. e., standards 5.5 percent and selects 7.7 percent.

LIBELED: 11-20-56, S. Dist. Ohio.

CHARGE: 403 (e) (2)—the article, when shipped, failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 11-20-56. Consent—claimed by Metompkin Bay Oyster Co. and repacked into gallon cans.

23789. Oysters. (F. D. C. No. 39911. S. Nos. 47-287/8 M.)

QUANTITY: 400 12-oz. cans at Akron, Ohio.

SHIPPED: 12-28-56, from Port Mahon, Del., by Newcomb & Hand, Inc.

LABEL IN PART: "Superior Brand Oysters * * * Medium (or Selects)."

LIBELED: 1-3-57, N. Dist. Ohio.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 1-18-57. Consent—destruction.

23790. Oysters. (F. D. C. No. 39938. S. No. 67-366 M.)

QUANTITY: 1 200-can bbl. and 1 178-can bbl. at Rochester, N. Y.

SHIPPED: 12-29-56, from Crisfield, Md., by Christy & Sons.

LABEL IN PART: (Can) "Christy's Oysters 12 Fl. Oz. Packed by George A. Christy & Sons, Crisfield, Maryland, MD. 233."

LIBELED: 2-1-57, W. Dist. N. Y.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-7-57. Default—delivered to charitable institutions for their use.

23791. Oysters. (F. D. C. No. 39780. S. No. 27-100 M.)

QUANTITY: 4 bbls., containing a total of 284 1-pint cans, at San Francisco, Calif.

SHIPPED: 11-17-56, from New Orleans, La., by Tony Monjure Co.

LABEL IN PART: (Can) "Tony Monjure's Freezer Fresh Brand Fresh Oysters."

LIBELED: 11-23-56, N. Dist. Calif.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 12-11-56. Default—delivered for the use of a Federal institution.

23792. Oysters. (F. D. C. No. 39935. S. No. 53-162 M.)

QUANTITY: 184 pts. at Dallas, Tex.

SHIPPED: 1-28-57, from New Orleans, La., by Popich & Jurisich.

LABEL IN PART: "P & J Brand Oysters."

LIBELED: 1-31-57, N. Dist. Tex.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 3-1-57. Default—destruction.

23793. Oysters. (F. D. C. No. 39918. S. No. 53-310 M.)

QUANTITY: 182 pts. at Mobile, Ala.

SHIPPED: 1-11-57, from Pascagoula, Miss., by Bosarge Seafood Co.

LABEL IN PART: "Bosarge Brand Oysters."

LIBELED: 1-18-57, S. Dist. Ala.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-25-57 and 3-14-57. Default—destruction.

23794. Oysters. (F. D. C. No. 39940. S. Nos. 53-327/8 M.)

QUANTITY: 40 pts. in glass jars and 84 pts. in tins at Los Angeles, Calif.

SHIPPED: 1-29-57, from New Orleans, La., by Popich & Jurisich.

LABEL IN PART: (Jars and tins) "P & J Brand Oysters."

LIBELED: 2-4-57, S. Dist. Calif.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-27-57. Default—delivered to a charitable institution.

23795. Oysters. (F. D. C. No. 39927. S. No. 27-373 M.)

QUANTITY: 43 pts. in tins and 39 pts. in jars at Los Angeles, Calif.

SHIPPED: 1-21-57, from New Orleans, La., by James Kambur Co., Inc.

LABEL IN PART: "Kambur's Special Louisiana's Famous Cultivated Fresh Oysters."

LIBELED: 1-24-57, S. Dist. Calif.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-20-57. Default—delivered to a charitable institution for its use.

23796. Oysters. (F. D. C. No. 39934. S. No. 53-163 M.)

QUANTITY: 18 1-gal. cans at Jeffersonville, Ind.

SHIPPED: 1-28-57, from New Orleans, La., by Martina & Martina.

LABEL IN PART: "Martina & Martina M&M Brand Oysters."

LIBELED: 2-20-57, S. Dist. Ind.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 5-2-57. Default—destruction.

23797. Oysters. (F. D. C. No. 39920. S. No. 27-076 M.)

QUANTITY: 16 1-gal. cans at Shreveport, La.

SHIPPED: 1-9-57, from Biloxi, Miss., by L. D. Gallott Seafood Co.

LIBELED: 1-22-57, W. Dist. La.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-27-57. Default—destruction.

23798. Oysters. (F. D. C. No. 39926. S. No. 27-372 M.)

QUANTITY: 14 1-gal. cans at Lubbock, Tex.

SHIPPED: 1-21-57, from New Orleans, La., by Tedesco's Fish & Oyster House.

LIBELED: 1-28-57, N. Dist. Tex.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 4-26-57. Default—delivered to a Federal institution for its use and not for sale.

23799. Oysters. (F. D. C. No. 39925. S. No. 27-371 M.)

QUANTITY: 14 1-gal. tins at Jackson, Miss.

SHIPPED: 1-21-57, from New Orleans, La., by Tedesco's Fish & Oyster House.

LIBELED: 1-23-57, S. Dist. Miss.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-6-57. Default—destruction.

FRUITS AND VEGETABLES

DRIED FRUIT

23800. Prunes and figs. (F. D. C. No. 39907. S. Nos. 41-963/5 M.)

QUANTITY: 30 cases, each containing 24 1-lb. packages, of prunes, and 10 cases, each containing 24 12-oz. packages, of figs at Buffalo, N. Y.

SHIPPED: 10-11-54, from San Francisco, Calif.

LIBELED: 1-2-57, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained moldy and otherwise decomposed fruit while held for sale.

DISPOSITION: 1-30-57. Default—destruction.

FRESH FRUIT

23801. Blackberries. (F. D. C. No. 39917. S. No. 55-542 M.)

QUANTITY: 22 25-lb. boxes at Cincinnati, Ohio.

SHIPPED: 9-28-53, from Dundee, Oreg.

LIBELED: 1-16-57, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects and insect webbing while held for sale.

DISPOSITION: 2-21-57. Default—consumption by animals.

VEGETABLES AND VEGETABLE PRODUCTS

23802. Dried lima beans. (F. D. C. No. 39948. S. Nos. 33-635/6 M.)

QUANTITY: 28 100-lb. bags at St. Joseph, Mo., in possession of Beaty Grocery Co., Inc.

SHIPPED: 11-12-56, from Oxnard, Calif.

LIBELED: 2-18-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent urine and mouse excreta pellets; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-4-57. Default—consumption by animals.

23803. Dried pinto beans. (F. D. C. No. 39723. S. No. 61-688 M.)

QUANTITY: 41 100-lb. bags at Mabscott, W. Va., in possession of Raleigh Grocery Co.

SHIPPED: 9-12-56, from North Kansas City, Mo.

LIBELED: 1-7-57, S. Dist. W. Va.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 1-15-57. Default—consumption by animals.

23804. Celery. (F. D. C. No. 39922, S. No. 24-145 M.)

QUANTITY: 333 ctns. at Bluefield, W. Va.

SHIPPED: 1-8-57, from Chula Vista, Calif., by Ken W. Baird Co.

LABEL IN PART: "Pascal Celery-16 Stalks-First Pack Brand-Ken W. Baird Company, San Ysidro, California."

LIBELED: 1-25-57, S. Dist. W. Va.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity, and, when shipped, contained a pesticide chemical, parathion, which is unsafe within the meaning of the law since the quantity of such pesticide chemical on the article was not within the limits of the tolerance prescribed by regulations.

DISPOSITION: 1-29-57. Default—destruction.

23805. Celery. (F. D. C. No. 39921. S. No. 24-145 M.)

QUANTITY: 333 30-lb. ctns. at Salem, Va.

SHIPPED: 1-8-57, from Chula Vista, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article contained a residue of parathion, a pesticide chemical, in excess of the established tolerance.

LIBELED: 1-18-57, W. Dist. Va.

CHARGE: 402 (a) (2)—the article contained spray residue in excess of the tolerance while held for sale.

DISPOSITION: 2-25-57. Default—destruction.

23806. Canned mushrooms. (F. D. C. No. 40086. S. No. 53-263 M.)

QUANTITY: 120 cases, 24 8-oz. cans each, at Houston, Tex.

SHIPPED: 2-12-57, from Chace, France, by Etablissements Blanchaud.

LABEL IN PART: (Can) "Royalty Brand Mushrooms * * * Pieces and Stems Product of France."

LIBELED: 4-12-57, S. Dist. Tex.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 6-25-57. Default—destruction.

23807. Canned okra. (F. D. C. No. 40109. S. No. 69-350 M.)

QUANTITY: 24 cases, 24 1-lb. 3-oz. cans each, at Philadelphia, Pa.

SHIPPED: On an unknown date, from New Orleans, La.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing decomposition.

LIBELED: 4-5-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 5-6-57. Default—destruction.

23808. Green split peas. (F. D. C. No. 39953. S. No. 24-149 M.)

QUANTITY: 85 100-lb. bags at Los Angeles, Calif., in possession of Sunshine Specialties Products Co.

SHIPPED: 12-28-56, from Spokane, Wash.

LIBELED: 2-19-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 3-25-57. Consent—claimed by Sunshine Specialties Products Co. Segregated; 31 lbs. destroyed.

23809. Canned wax peppers. (F. D. C. No. 39776. S. No. 28-889 M.)

QUANTITY: 13 cases, 24 1-pt. jars each, at Reno, Nev.

SHIPPED: 10-23-56, from Sacramento, Calif., by Superior Pickle Works.

LABEL IN PART: (Jar) "Old Homestead Brand Wax Peppers."

LIBELED: 11-21-56, Dist. Nev.

CHARGE: 402 (a) (3)—contained insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 2-21-57. Default—destruction.

23810. Pickles. (F. D. C. No. 39747. S. Nos. 56-316 M, 56-344 M.)

QUANTITY: 262 cases, 12 jars each, and 248 cases, 24 jars each, at Chicago, Ill.

SHIPPED: 8-8-56 and 8-13-56, from Redgranite, Wis., by Chicago Pickle Co., Inc.

LABEL IN PART: (Jar) "Chipico * * * Midget Pickles * * * Contents 1 Fl. Pint."

LIBELED: 1-8-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained an excessive amount of grit when shipped.

DISPOSITION: 2-7-57. Default—destruction.

TOMATOES AND TOMATO PRODUCTS**23811. Canned tomatoes.** (F. D. C. No. 39741. S. No. 50-231 M.)

QUANTITY: 169 cases, 24 1-lb. 12-oz. cans each, at Manchester, N. H.

SHIPPED: 9-24-56, from Nassawadox, Va., by Thomas Roberts & Co.

LABEL IN PART: (Can) "Elmdale Tomatoes * * * National Retailer-Owned Grocers, Inc., Distributors."

RESULTS OF INVESTIGATION: The article was prepared by the Douglas Packing Co., Inc., Nassawadox, Va.

LIBELED: 12-28-56, Dist. N. H.

CHARGE: 402 (a) (3)—contained flies, fly eggs, and maggots; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 2-15-57. Default—destruction.

23812. Tomato juice. (F. D. C. No. 40126. S. Nos. 61-165 M, 61-169 M.)

QUANTITY: 172 cases, 6 cans each, at Boston, Mass.

SHIPPED: 4-27-56 and 2-22-57, from Albion, N. Y., by Orleans County Canning Co.

LABEL IN PART: (Can) "Johnson's * * * Bestovall Tomato Juice * * * Contents 3 Quarts."

LIBELED: 4-5-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 9-16-57. Default—destruction.

23813. Tomato juice. (F. D. C. No. 39740. S. No. 61-581 M.)

QUANTITY: 137 cases, 12 1½-pt. btls. each, at Baltimore, Md.

SHIPPED: 10-19-56, from North East, Pa., by Welch Grape Juice Co., Inc.

LABEL IN PART: (Btl.) "Welch's Homogenized Tomato Juice."

LIBELED: On or about 12-28-56, Dist. Md.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 1-28-57. Default—destruction.

23814. Tomato juice. (F. D. C. No. 39877. S. No. 60-994 M.)

QUANTITY: 89 cases, 6 cans each, at Boston, Mass.

SHIPPED: 10-2-56, from Albion, N. Y., by Orleans County Canning Co., Inc.

LABEL IN PART: (Can) "Red Label Brand * * * Tomato Juice * * * Contents 3 Qts."

LIBELED: 2-27-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 9-13-57. Consent—destruction.

23815. Tomato juice. (F. D. C. No. 39742. S. No. 60-739 M.)

QUANTITY: 81 cases, each containing 12 btls., at Boston, Mass.

SHIPPED: 11-27-56, from Westfield, N. Y., by Welch Grape Juice Co., Inc.

LABEL IN PART: (Btl.) "Welch's Homogenized Tomato Juice Contents—1 Quart."

LIBELED: 12-28-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-25-57. Default—destruction.

23816. Tomato juice. (F. D. C. No. 39930. S. No. 42-951 M.)

QUANTITY: 73 cases, 12 cans each, at Peoria, Ill.

SHIPPED: 3-21-56, from Warren, Ind., by Shuttlesworth Foods, Inc.

LABEL IN PART: (Can) "Country Garden Brand * * * Tomato Juice * * * Contents 1 Qt. 14 Fl. Oz."

LIBELED: 1-25-57, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed tomato juice when shipped.

DISPOSITION: 2-18-57. Default—destruction.

NUTS AND NUT PRODUCTS

23817. Unshelled mixed nuts. (F. D. C. No. 39778. S. No. 56-396 M.)

QUANTITY: 90 50-lb. bags at Hopkins, Minn., in possession of Red Owl Stores, Inc.

SHIPPED: 11-5-56, from Chico, Calif.

LIBELED: 11-26-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 1-7-57. Consent—claimed by Red Owl Stores, Inc. Segregated; 600 lbs. destroyed.

23818. Brazil nuts (4 seizure actions). (F. D. C. Nos. 39768, 39769, 39781, 39783. S. Nos. 55-713 M, 55-719 M, 55-732 M, 55-856 M.)

QUANTITY: 5 100-lb. bags; 23 50-lb. bags; 171 ctns., containing 24 1-lb. trays each; and 109 cases, containing 24 1-lb. trays each, at Cincinnati, Ohio.

SHIPPED: Between 10-6-56 and 10-23-56, from New York, N. Y., by William A. Camp. Co., Inc.

LABEL IN PART: (Bag) "American Beauty Brand Large Brazil Nuts"; (trays) "Tropical Selected Brazil Nuts."

LIBELED: Between 11-19-56 and 11-26-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained moldy, decomposed, shriveled, and rancid nuts, and empty shells when shipped.

DISPOSITION: 1-28-57. Consent—claimed by William A. Camp Co., Inc., Segregated; 1,080 lbs. destroyed.

23819. Brazil nuts. (F. D. C. No. 39736. S. No. 27-811 M.)

QUANTITY: 7 100-lb. bags and 1 50-lb. bag at Miami, Fla.

SHIPPED: 12-7-56, from Chicago, Ill., by Tony Manzo & Co.

LIBELED: On or about 12-27-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained decomposed nuts when shipped.

DISPOSITION: 2-25-57. Default—destruction.

23820. Cashew nuts. (F. D. C. No. 39772. S. No. 24-612 M.)

QUANTITY: 59 cases, 2 25-lb. cans each, at Los Angeles, Calif.

SHIPPED: On an unknown date, from India.

LIBELED: 11-26-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-6-56. Consent—claimed by Sun Crown Food Corp., San Francisco, Calif. Segregated; 450 lbs. destroyed.

23821. Cashew nuts. (F. D. C. No. 39782. S. Nos. 28-639/40 M.)

QUANTITY: 73 25-lb. cans at San Francisco, Calif.

SHIPPED: 7-6-56 and 7-17-56, from Quilon, India.

LIBELED: 11-27-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects, insect webbing, and excreta while held for sale.

DISPOSITION: 12-6-56. Consent—claimed by Sun Crown Food Corp., San Francisco, Calif. Segregated; 475 lbs. destroyed.

23822. Unshelled filberts. (F. D. C. No. 39770. S. No. 33-583 M.)

QUANTITY: 30 cases, 24 1-lb. bags each, at Kansas City, Mo.

SHIPPED: 11-7-56, from Aloha, Oreg., by Aloha Packing Co.

LABEL IN PART: (Bag) "Val-E-Nut Brand * * * Oregon Filberts."

LIBELED: On or about 11-23-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insects, decomposed nuts, and empty shells when shipped.

DISPOSITION: On or about 1-29-57. Consent—claimed by Valley Nut Co., Beaverton, Oreg. Segregated; 448 lbs. destroyed.

23823. Unshelled filberts. (F. D. C. No. 39743. S. No. 54-476 M.)

QUANTITY: 6 100-lb. bags at Seattle, Wash.

SHIPPED: 10-23-56, from Beaverton, Oreg., by Valley Nut Co.

LABEL IN PART: "Val-E-Nut Brand Oregon No. 1 Filberts."

LIBELED: 12-31-56, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained wormy nuts and empty shells when shipped.

DISPOSITION: 4-15-57. Default—destruction.

23824. Indian nuts. (F. D. C. No. 39851. S. No. 63-306 M.)

QUANTITY: 250 lbs. in 3 drums at Brooklyn, N. Y.

SHIPPED: In October 1955, from Albuquerque, N. Mex.

LIBELED: 1-29-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects, insect excreta, and moldy and rancid nuts while held for sale.

DISPOSITION: 2-25-57. Default—destruction.

23825. Shelled peanuts and roasted peanuts. (F. D. C. No. 39803. S. Nos. 33-688 M, 34-200 M.)

QUANTITY: 200 124-lb. bags of shelled peanuts and 7 100-lb. bags of roasted peanuts at Kansas City, Mo.

SHIPPED: 10-17-56, from Cordele, Ga.

LIBELED: 12-5-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insects and insect-infested nuts while held for sale.

DISPOSITION: 1-17-57. Consent—claimed by Red Diamond Mills, Inc., Cordele, Ga., and converted for use as animal feed.

23826. Shelled peanuts. (F. D. C. No. 39919. S. Nos. 33-754 M, 58-117 M.)

QUANTITY: 23 100-lb. bags at St. Joseph, Mo., in possession of Bunte Bros., Chase Candy Co. Warehouse.

SHIPPED: 10-10-56, from Durant, Okla.

LIBELED: On or about 1-21-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent urine and excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 3-7-57. Default—consumption by animals.

23827. Peanuts. (F. D. C. No. 39779. S. No. 38-619 M.)

QUANTITY: 64 100-lb. bags at Peoria, Ill.

SHIPPED: 5-10-56, from Suffolk, Va.

LIBELED: 11-26-56, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects, insect webbing, and excreta while held for sale.

DISPOSITION: 1-4-57. Consent—claimed by Oakford Co., Peoria, Ill., and converted into animal feed.

23828. Unshelled pecans. (F. D. C. No. 39906. S. No. 53-208 M.)

QUANTITY: 5,980 lbs. in 85 bags at Houston, Tex.

SHIPPED: 12-11-56, from Louisiana.

LIBELED: On or about 12-31-56, S. Dist. Tex.

CHARGE: 402 (a) (3)—contained decomposed pecans when shipped.

DISPOSITION: 1-4-57. Consent—consumption by animals.

23829. Unshelled pecans. (F. D. C. No. 39951. S. No. 53-126 M.)

QUANTITY: 84 cases, 24 1-lb. bags each, at Dallas, Tex.

SHIPPED: 11-24-56, from Fairhope, Ala., by Shermer Pecan Co.

LABEL IN PART: (Bag) "Golden Goodee Extra Large Pecans * * * Shells Artificially Colored."

LIBELED: 2-26-57, N. Dist. Tex.

CHARGE: 402 (c)—when shipped, the article bore or contained bismarck brown, a coal-tar color other than one from a batch that had been certified in accordance with regulations.

DISPOSITION: 3-28-57. Default—destruction.

23830. Shelled pecans. (F. D. C. No. 40089. S. Nos. 51-446/7 M.)

QUANTITY: 75 30-lb. cases at Los Angeles, Calif.

SHIPPED: 3-12-57, from St. Louis, Mo., by Missouri Pecan Shelling Co.

LABEL IN PART: "Missouri Pecans Halves."

LIBELED: 4-17-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained *E. coli*; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 5-10-57. Default—destruction.

23831. Shelled pecans. (F. D. C. No. 39753. S. No. 45-654 M.)

QUANTITY: 22 30-lb. boxes at North Rocky Mount, N. C.

SHIPPED: 10-25-56, from Albany, Ga., by Consolidated Pecan Sales Co.

LABEL IN PART: "Georgia Selected Pecan Meats * * * Large Pecan Pieces."

LIBELED: 1-14-57, E. Dist. N. C.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 2-20-57. Default—destruction.

23832. Shelled pecans. (F. D. C. No. 40119. S. No. 57-185 M.)

QUANTITY: 49 30-lb. ctns. and 1 24-lb. ctn. at Orangeburg, S. C.

SHIPPED: 1-21-57, from Gulfport, Miss., by Williams Pecan Products Co.

LABEL IN PART: "Wilco Shelled Pecans Medium Amber Pieces."

LIBELED: 4-3-57, E. Dist. S. C.

CHARGE: 402 (a) (3)—contained *E. coli*; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 6-11-57. Default—destruction.

23833. Shelled pecans. (F. D. C. No. 39956. S. No. 53-923 M.)

QUANTITY: 10 ctns. at Slidell, La.

SHIPPED: 1-22-57, from Gulfport, Miss., by Williams Pecan Products Co.

LABEL IN PART: "Wilco Shelled Pecans * * * Seedling Medium Fancy Pieces 30 Lbs. Net."

LIBELED: 2-20-57, E. Dist. La.

CHARGE: 402 (a) (3)—contained *E. coli*; and 402 (a) (4)—packed under insanitary conditions.

DISPOSITION: 4-1-57. Default—destruction.

23834. Shelled walnuts (2 seizure actions). (F. D. C. Nos. 39755, 39756. S. Nos. 59-801/3 M.)

QUANTITY: 130 30-lb. cases at Chicago, Ill.

SHIPPED: 11-30-56 and 12-10-56, from Modesto, Calif., by Haig Berberian.

LIBELED: 1-14-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insect filth, insect parts, and insect webbing and excreta, and *E. coli*; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 2-6-57. Default—destruction.

23835. Shelled walnuts. (F. D. C. No. 39916. S. No. 27-095 M.)

QUANTITY: 60 30-lb. ctns. at Denison, Tex.

SHIPPED: 11-19-56, from Modesto, Calif., by Haig Berberian.

LIBELED: 1-15-57, E. Dist. Tex.

CHARGE: 402 (a) (3)—contained insect filth and *E. coli*; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 4-24-57. Default—consumption by animals.

23836. Shelled black walnuts. (F. D. C. No. 39954. S. No. 45-170 M.)

QUANTITY: 47 bags containing a total of 1,626 lbs. at Broadway, Va.

SHIPPED: 1-30-57, from Morristown, Tenn., by Acker Black Walnut Corp.

LIBELED: On or about 3-1-57, W. Dist. Va.

CHARGE: 402 (a) (3)—contained insect parts, rodent hairs, and *E. coli* when shipped.

DISPOSITION: 3-12-57. Consent—claimed by Acker Black Walnut Corp. Re-processed; approximately 436 lbs. destroyed.

23837. Shelled English walnuts. (F. D. C. No. 39944. S. No. 35-062 M.)

QUANTITY: 191 25-lb. cases at Cleveland, Ohio.

SHIPPED: 12-7-56, from San Jose, Calif., by Sun Crown Food Corp.

LABEL IN PART: "Light Amber Halves and Pieces Sun Crown Brand California Shelled Walnuts."

RESULTS OF INVESTIGATION: Inspection of Northside Walnut Shelling Co., San Jose, Calif., the manufacturer of the article, showed that insanitary conditions existed which would result in contamination of the article.

LIBELED: 2-11-57, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained rodent hairs and *E. coli*; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 3-4-57. Consent—claimed by Sun Crown Food Corp. and destroyed.

23838. Peanut butter. (F. D. C. No. 39786. S. No. 38-616 M.)

QUANTITY: 79 cases, 12 1-lb. 2-oz. jars each, at Decatur, Ill.

SHIPPED: 9-14-56, from Milwaukee, Wis., by Holsum Products Co.

LABEL IN PART: (Jar) "Tast-Good Brand * * * Stabilized Peanut Butter * * * Packed for Empire Distributing Co. St. Louis, Mo."

LIBELED: 12-4-56, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 1-10-57. Default—destruction.

23839. Peanut butter. (F. D. C. No. 39746. S. No. 48-505 M.)

QUANTITY: 61 cases, 12 jars, each at Fort Sheridan, Ill.

SHIPPED: 9-4-56, from Milwaukee, Wis., by Jewett & Sherman Co.

LABEL IN PART: (Jar) "Holsum Creme Peanut Butter."

LIBELED: 1-8-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 2-12-57. Default—destruction.

23840. Peanut butter. (F. D. C. No. 39793. S. No. 38-614 M.)

QUANTITY: 22 cases, 12 1-lb. 2-oz. jars each, at Peoria, Ill.

SHIPPED: 9-14-56, from Milwaukee, Wis., by Holsum Products Co.

LABEL IN PART: (Jar) "Re-Joyce * * * Smooth-Creamy Peanut Butter."

LIBELED: 11-30-56, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 1-3-57. Default—destruction.

23841. Coconut. (F. D. C. No. 39787. S. No. 65-062 M.)

QUANTITY: 12 cases, 12 8-oz. pkgs. each, at Johnson City, Tenn., in possession of Cash & Haul Wholesale Grocery Co.

SHIPPED: Between 1-3-56 and 6-11-56, from Bristol, Va.

LIBELED: 11-29-56, E. Dist. Tenn.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 1-9-57. Default—destruction.

OLEOMARGARINE

23842. Colored oleomargarine. (F. D. C. No. 39964. S. Nos. 8-087 M, 33-545 M.)

INFORMATION FILED: 4-24-57, Dist. Kans., against Jack H. Cook, t/a Spa Grill, Wichita, Kans.

ALLEGED VIOLATION: On 10-19-55 and 9-26-56, at Wichita, Kans., the defendant unlawfully served a quantity of colored oleomargarine.

CHARGE: 407 (c)—colored oleomargarine was served at a public eating place, namely, Spa Grill, and it was a separate serving which (1) did not bear, and was not accompanied by, labeling identifying it as oleomargarine or (2) was not triangular in shape.

PLEA: Guilty.

DISPOSITION: 6-13-57. \$20 fine.

POULTRY

23843. Dressed poultry. (F. D. C. No. 39662. S. No. 37-279 M.)

QUANTITY: 300 crates containing 16,684 lbs. at Newark, N. J.

SHIPPED: 10-9-56, from Gainesville, Ga., by Mar-Jac Poultry Co.

LABEL IN PART: "Grade A Fryers Inspected and Passed for Wholesomeness by Hall County, Ga. Health Dept. Gainesville, Georgia Permit No. 103."

LIBELED: 11-5-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained birds which were contaminated with fecal and crop material; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 1-25-57. Consent—claimed by McKibbon Bros., Inc., Gainesville, Ga. The article was reconditioned by thawing and a thorough washing and cleaning.

23844. Dressed poultry. (F. D. C. No. 39882. S. Nos. 60-626/30 M.)

QUANTITY: 54 crates containing a total of 3,370 lbs. at Boston, Mass.

SHIPPED: 2-6-57, from Goffstown, N. H., by Karanikas & Sons Poultry Co.

LIBELED: 2-27-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained birds which were contaminated with fecal and crop material when shipped; and 402 (a) (5)—a portion of the article was in whole or in part the product of a diseased animal.

DISPOSITION: 4-3-57. Consent—claimed by Karanikas & Sons Poultry Co. Segregated; approximately 125 lbs. destroyed.

23845. Dressed poultry. (F. D. C. No. 40106. S. No. 60-637 M.)

QUANTITY: 18 70-lb. boxes and 1 28-lb. box at Providence, R. I.

SHIPPED: 3-8-57 and 3-11-57, from Belfast, Maine, by Maplewood Packing Co.

LIBELED: 3-27-57, Dist. R. I.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter and extensively bruised birds when shipped; and 402 (a) (5)—contained diseased birds.

DISPOSITION: 7-8-57. Default—destruction.

23846. Dressed poultry. (F. D. C. No. 39737. S. No. 57-377 M.)

QUANTITY: 18 crates, each containing from 51 to 58 lbs., at Miami, Fla.

SHIPPED: 12-6-56, from Canton, Ga., by Etowah Poultry Co.

LIBELED: On or about 1-3-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained birds which were contaminated with fecal and crop material when shipped.

DISPOSITION: 2-25-57. Default—destruction.

23847. Dressed turkeys. (F. D. C. No. 39862. S. No. 62-601 M.)

QUANTITY: 4 225-lb. crates at New York, N. Y.

SHIPPED: 1-23-57, from Philadelphia, Pa., by Quaker City Dressed Poultry Co., Inc.

LABEL IN PART: "Dressed Poultry * * * Quaker Brand Poultry."

LIBELED: 2-18-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained birds which were contaminated with fecal matter and extensively bruised birds when shipped; and 402 (a) (5)—it was in whole or in part the product of a diseased animal.

DISPOSITION: 3-15-57. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

23848. Fennel seed. (F. D. C. No. 39804. S. No. 33-451 M.)

QUANTITY: 10 120-lb. bags at Omaha, Nebr.

SHIPPED: 10-30-56, from New York, N. Y., by Knickerbocker Mills Co.

LABEL IN PART: (Bag) "Leo New York Produce of India Triple Recleaned Fennel."

LIBELED: 12-7-56, Dist. Nebr.

CHARGE: 402 (a) (3)—contained rodent excreta when shipped.

DISPOSITION: 1-9-57. Default—destruction.

23849. Vanilla beans. (F. D. C. No. 40095. S. No. 59-426 M.)

QUANTITY: 59 lbs. at Philadelphia, Pa.

SHIPPED: 2-7-57, from Springfield, Mass. This was a return shipment.

LIBELED: 3-11-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained live insects while held for sale.

DISPOSITION: 3-27-57. Consent—claimed by Zink & Triest Co., Philadelphia, Pa. Segregated; 19 lbs. 11 ozs. destroyed.

23850. Dietall. (F. D. C. No. 39946. S. No. 56-434 M.)

QUANTITY: 12 25-lb. boxes at Cambridge, Minn.

SHIPPED: 12-26-56, from New York, N. Y., by Mainland Corp.

LABEL IN PART: "Dietall 'The Complete Food' * * * Flavor Meat."

RESULTS OF INVESTIGATION: The article was manufactured by Foodmaker, Inc., Lindenhurst, N. Y.

LIBELED: 2-13-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 3-27-57. Default—destruction.

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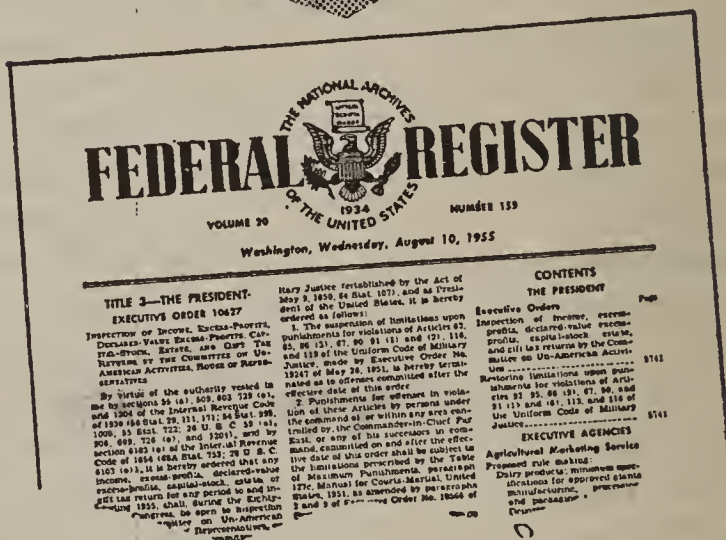
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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23851-23900

FOODS

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U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent and (2) criminal proceedings which were terminated upon pleas of guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., August 7, 1958.

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23851-23900**

Adulteration, Section 402 (a) (1), the article contained an added deleterious substance which may have rendered it injurious to health; Section 402 (a) (2), the article, in one case, contained an added poisonous or deleterious substance which is unsafe within the meaning of Section 406, and, in one other case, the article was a raw agricultural commodity and contained a pesticide chemical which is unsafe within the meaning of Section 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23851. Bakery products. (F. D. C. No. 39988. S. Nos. 35-057 M, 41-452 M.)
INFORMATION FILED: 4-22-57, N. Dist. Ohio, against Lembright Grocers Baking Co., a corporation, Alliance, Ohio.

SHIPPED: 10-3-56 and 10-4-56, from Ohio to Pennsylvania and New York.

LABEL IN PART: (Wrapper) "Buttertop Filled Coffee Ring 10 oz. Dist. By NBC Bread Bakery," and "Buttertop Cinnamon Rolls Berry Filled 10 oz. Dist. By NBC Bread Bakery."

CHARGE: 402 (a) (3)—contained insects, insect fragments, and rodent hair fragments; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-10-57. \$500 fine.

23852. Cookies. (F. D. C. No. 39814. S. No. 22-142 M.)

QUANTITY: 196 cases, 12 6-oz. pkgs. each, at Sharpsburg, Pa.

SHIPPED: 9-26-56, from Brooklyn, N. Y., by A. B. C. Baking Co.

LABEL IN PART: "Continental Favourites-29¢ Viennese Cookies Chocolate Assortment."

LIBELED: 12-11-56, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects, insect parts, and rodent hair fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-3-57. Default—destruction.

FLOUR

23853. Flour (2 seizure actions). (F. D. C. Nos. 39823, 39901. S. Nos. 33-348 M, 33-747 M.)

QUANTITY: 1,600 100-lb. sacks at Clinton and North Kansas City, Mo.

SHIPPED: 12-1-56 and 12-4-56, from Hayes, Kans., by Hayes City Flour Mills.

LABEL IN PART: "Clear Flour."

RESULTS OF INVESTIGATION: Inspection of Hayes City Flour Mills showed that the flour was stored under insanitary conditions.

LIBELED: 12-17-56 and 12-21-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-27-56. Consent—claimed by Colorado Milling & Elevator Co., Denver, Colo., and denatured into glue.

23854. Flour. (F. D. C. No. 39811. S. No. 55-815 M.)

QUANTITY: 8 100-lb. bags at Cincinnati, Ohio, in possession of Niehaus Bros.

SHIPPED: 9-17-56, from Springfield, Ill.

LIBELED: 12-7-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 1-22-57. Default—consumption by animals.

MACARONI AND NOODLE PRODUCTS

23855. Macaroni. (F. D. C. No. 39721. S. No. 60-708 M.)

QUANTITY: 12 cases, 24 1-lb. pkgs. each, at Somerville, Mass.

SHIPPED: 11-2-56, from Steger, Ill., by D'Amico Macaroni Co.

LABEL IN PART: (Pkgs.) "Monarch Elbow Macaroni."

LIBELED: 12-10-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-21-57. Default—destruction.

23856. Egg noodles. (F. D. C. No. 39815. S. No. 22-143 M.)

QUANTITY: 448 10-lb. ctns. at McKees Rocks, Pa.

SHIPPED: 11-9-56, from Steger, Ill., by G. D'Amico Macaroni Co., Inc.

LABEL IN PART: "Sexton Medium Fine Polish Egg Noodles."

LIBELED: 12-11-56, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-3-57. Default—destruction.

23857. Egg noodles. (F. D. C. No. 39821. S. No. 56-664 M.)

QUANTITY: 124 10-lb. ctns. at Minneapolis, Minn.

SHIPPED: 10-24-56 and 11-2-56, from Steger, Ill., by G. D'Amico Macaroni Co., Inc.

LABEL IN PART: "Aslesen's Banquet Table Polish Style Egg Noodles."

LIBELED: 12-18-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-29-57. Default—consumption by animals.

MISCELLANEOUS CEREALS

23858. Barley. (F. D. C. No. 39903. S. No. 40-753 M.)

QUANTITY: 82,510 lbs. at Minneapolis, Minn.

SHIPPED: 12-7-56, from Maddock, N. Dak., by Farmer's Union Grain Terminal Association.

LIBELED: 1-2-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity, and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which was unsafe within the meaning of the law since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley had been prescribed by regulations.

DISPOSITION: 1-15-57. Consent—claimed by Farmer's Union Grain Terminal Association, St. Paul, Minn. Segregated; 7,790 lbs. destroyed.

23859. Rice. (F. D. C. No. 39695. S. No. 28-711 M.)

QUANTITY: 57 100-lb. bags at Ponce, P. R.

SHIPPED: 9-17-56, from San Francisco, Calif.

RESULTS OF INVESTIGATION: The article had been stored under insanitary conditions at Pacific Ports Service, Pier 34, San Francisco, Calif.

LIBELED: 11-20-56, Dist. of P. R.

CHARGE: 402 (a) (3)—contained rodent urine when shipped; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 2-28-57. Consent—claimed by C. E. Grosjean Rice Milling Co. Segregated; 36 bags denatured for use as animal feed.

23860. Rice. (F. D. C. No. 38410. S. No. 20-028 M.)

QUANTITY: 50 100-lb. bags at Washington, D. C.

SHIPPED: Prior to 4-4-55, from Rayne, La.

LIBELED: 8-25-55, Dist. Columbia.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-1-55. Default—consumption by animals.

23861. Rice. (F. D. C. No. 39902. S. No. 58-116 M.)

QUANTITY: 27 100-lb. bags at St. Joseph, Mo., in possession of Beaty Grocery Co., Inc.

SHIPPED: 10-9-56 and 11-16-56, from Stuttgart, Ark.

LIBELED: On or about 12-28-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: On or about 2-21-57. Default—consumption by animals.

23862. Rice. (F. D. C. No. 39724. S. Nos. 45-645/6 M.)

QUANTITY: 173 bales, 20 3-lb. bags each, and 44 bales containing 20 3-lb. bags each, at Raleigh, N. C.

SHIPPED: 1-1-56, from Stuttgart, Ark.

LIBELED: 12-14-56, E. Dist. N. C.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 3-25-57. Consent—claimed by Arkansas Rice Growers Coop. Assn. Segregated; 70 lbs. destroyed.

23863. Rice. (F. D. C. No. 39699. S. No. 37-311 M.)

QUANTITY: 8 ctns., 25 2-lb. pkgs. each, 1 ctn. containing 60 12-oz. pkgs., and 1 ctn. containing 30 12-oz. pkgs. at New York, N. Y.

SHIPPED: 10-25-56, from Houston, Tex., Memphis, Tenn., or Jonesboro, Ark.

LIBELED: 11-30-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-14-57. Default—destruction.

23864. Wheat. (F. D. C. No. 39825. S. No. 56-665 M.)

QUANTITY: 118,450 lbs. at Duluth, Minn.

SHIPPED: 11-7-56, from Grand Forks, N. Dak.

LIBELED: 12-18-56, Dist. Minn.

CHARGE: 402 (a) (2)—while in interstate commerce, the article contained an added poisonous or deleterious substance by reason of contamination with a lead compound.

DISPOSITION: 1-8-57. Consent—claimed by Farmer's Union Grain Terminal Assn., St. Paul, Minn. Reconditioned; 14,470 lbs. destroyed.

DAIRY PRODUCTS

BUTTER

23865. Butter. (F. D. C. No. 39222. S. No. 43-975 M.)

QUANTITY: 43 64-lb. cubes at Fort Smith, Ark.

SHIPPED: 7-21-56 and 7-22-56, from various places in Oklahoma.

RESULTS OF INVESTIGATION: The above described shipment consisted of 76 cans of cream, and after such shipment, the cream was used in the manufacture of butter. Examination showed that the butter was made from decomposed cream.

LIBELED: On or about 8-8-56, W. Dist. Ark.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 9-11-56. Consent—claimed by Sugar Creek Creamery Co., Fort Smith, Ark., and converted into butter oil.

CHEESE

23866. Cheese. (F. D. C. No. 39659. S. No. 49-991 M.)

QUANTITY: 498 ctns., 6 pkgs. each, at Worcester, Mass.

SHIPPED: 9-11-56, from New York, N. Y., by Rufa Cheese Products, Inc.

LABEL IN PART: (Pkg.) "Net Wt. 5 Lbs. Village Brand Pasteurized Process American Cheese."

LIBELED: 10-31-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained insects, insect parts, and mold when shipped.

DISPOSITION: 3-11-57. Default—consumption by animals.

MISCELLANEOUS DAIRY PRODUCT

23867. Dried skim milk. (F. D. C. No. 39758. S. No. 59-411 M.)

QUANTITY: 26 200-lb. drums at Philadelphia, Pa.

SHIPPED: 4-18-56 and 4-20-56, from Canisteo, N. Y.

LIBELED: 1-22-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 2-25-57. Default—destruction.

FISH AND SHELLFISH

23868. Frozen pollock fillets. (F. D. C. No. 39822. S. No. 50-096 M.)

QUANTITY: 29 large ctns., each containing 5 10-lb. ctns., and each of the smaller ctns. containing 100 cello-wrapped pkgs., at Boston, Mass.

SHIPPED: The fillets were from fish caught on or about 12-7-56, in the Atlantic Ocean, outside the limits of Massachusetts.

LIBELED: 12-14-56, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 1-14-57. Consumption by animals.

23869. Canned sardines. (F. D. C. No. 39661. S. No. 50-349 M.)

QUANTITY: 45 cases, 50 cans each, at East Providence, R. I.

SHIPPED: 10-3-56, from Somerville, Mass., by First National Stores, Inc.

LABEL IN PART: (Can) "Norse Rover Brand Product of Norway Net Wt. 3¾ Oz. * * * Norwegian Sild Sardines."

LIBELED: On or about 11-28-56, Dist. R. I.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 1-3-57. Default—destruction.

23870. Trout. (F. D. C. No. 39852. S. No. 72-000 M.)

QUANTITY: 122 boxes at Chicago, Ill.

SHIPPED: 12-27-56, from Winnipeg, Canada, by Canadian Fish Producers.

LABEL IN PART: "Great Slave Lake Trout 60 Lbs. Net Wt. Carter Fisheries Product of Canada D 1148."

LIBELED: 1-25-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 2-20-57. Default—destruction.

23871. Fresh crabmeat. (F. D. C. No. 39323. S. Nos. 762 M, 39-513 M.)

INFORMATION FILED: 7-12-56, N. Dist. Fla., against Barwick Bros. Seafood Fish Co., a partnership, Panacea, Fla., and Augustus Barwick, partner.

SHIPPED: 4-13-56 and 4-16-56, from Florida to Louisiana.

LABEL IN PART: (Can) "Barwick Bros. Crab House Fla. 86C Crab Meat 1 Lb. Net Panacea, Fla." and "Carrabelle Crab Plant Fla. 99-C Crab Meat 1 Lb. Net Carrabelle, Fla."

CHARGE: 402 (a) (3)—contained *Escherichia coli* of fecal origin; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-13-57. Imposition of sentence suspended and defendants placed on probation for 2 years.

23872. Oysters. (F. D. C. No. 39816. S. Nos. 55-535/6 M.)

QUANTITY: 465 cans at Evansville, Ind.

SHIPPED: 11-13-56, from Louisville, Ky., by Bob Kelly Food Sales Co.

LABEL IN PART: (Can) "Delicious Oysters * * * Seacoast Oyster Co., Baltimore, Md., Md. 51 * * * 12 Fl. Ozs."

LIBELED: 12-12-56, S. Dist. Ind.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 12-19-56. Consent—destruction.

23873. Oysters. (F. D. C. No. 39734. S. No. 47-281 M.)

QUANTITY: 1 bbl. containing 92 1-pt. cans at Seattle, Wash.

SHIPPED: 12-14-56, from Mauricetown, N. J., by Port Norris Oyster Co., Inc.

LABEL IN PART: (Can) "Coast Pact Oysters."

LIBELED: 12-26-56, W. Dist. Wash.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed with them to increase their bulk or weight and reduce their quality.

DISPOSITION: 4-15-57. Default—delivered to a Federal Institution, for consumption by the inmates.

23874. Oysters. (F. D. C. No. 39735. S. No. 67-069 M.)

QUANTITY: 1 bbl. containing 78 12-oz. tins at Morgantown, W. Va.

SHIPPED: 12-18-56, from Baltimore, Md., by Seacoast Oyster Co., Inc.

LABEL IN PART: (Can) "Delicious Oysters."

LIBELED: 12-27-56, N. Dist. W. Va.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed with them to increase their bulk or weight and reduce their quality.

DISPOSITION: 1-30-57. Default—destruction.

23875. Frozen shrimp. (F. D. C. No. 39878. S. No. 69-263 M.)

QUANTITY: 21 cases, each containing 10 5-lb. ctns., at Philadelphia, Pa.

SHIPPED: 2-9-57, from Charlotte, N. C.

LIBELED: On or about 3-19-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed shrimp while held for sale.

DISPOSITION: 3-25-57. Consent—claimed by Liberty Fish Co., Philadelphia, Pa. Segregated; 285 lbs. denatured and released for sale as bait shrimp.

FRUITS AND VEGETABLES

DRIED FRUIT

23876. Raisins. (F. D. C. No. 39730. S. No. 48-131 M.)

QUANTITY: 273 cases, 24 15-oz. boxes each, at New York, N. Y.

SHIPPED: 10-29-56, from Del Rey, Calif., by Del Rey Packing Co.

LIBELED: 1-17-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects and insect eggs when shipped.

DISPOSITION: 2-8-57. Default—destruction.

23877. Raisins. (F. D. C. No. 39744. S. No. 60-678 M.)

QUANTITY: 15 cases, 24 boxes each, at Brockton, Mass.

SHIPPED: 11-6-56, from Del Rey, Calif., by Enoch Packing Co., Inc.

LABEL IN PART: (Box) "Sweet-n-Tasty Seedless Raisins."

LIBELED: 1-4-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 2-25-57. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

23878. Canned asparagus spears. (F. D. C. No. 39790. S. No. 44-002 M.)

QUANTITY: 28 cases, 12 4-lb. 2-oz. cans each, at Springfield, Mo.

SHIPPED: Between 2-24-56 and 5-23-56, from Stockton, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: On or about 12-3-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 1-21-57. Default—destruction.

23879. Dried kidney beans. (F. D. C. No. 39752. S. No. 61-584 M.)

QUANTITY: 76 cases, 24 1-lb. bags each, at Baltimore, Md.

SHIPPED: 10-11-56, from Port Huron, Mich.

LIBELED: On or about 1-9-57, Dist. Md.

CHARGE: Only 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 2-1-57. Default—destruction.

23880. Mung beans. (F. D. C. No. 39888. S. No. 61-034 M.)

QUANTITY: 17 100-lb. bags at Rockland, Mass., in possession of Chinese Food Products, Inc.

SHIPPED: 1-7-57, from New York, N. Y.

LIBELED: 3-5-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-22-57. Default—consumption by animals.

23881. Canned pinto beans. (F. D. C. No. 39773. S. No. 58-105 M.)

QUANTITY: 8 cases, 24 15-oz. cans each, at Liberal, Kans.

SHIPPED: 8-9-56, from Fort Smith, Ark., by Good Canning Co.

LABEL IN PART: (Can) "Dependable Brand Pinto Beans."

LIBELED: 11-29-56, Dist. Kans.

CHARGE: 402 (a) (1)—the article, when shipped, contained burrs, an added deleterious substance, which may have rendered the article injurious to health.

DISPOSITION: 1-16-57. Default—destruction.

23882. Green split peas. (F. D. C. No. 39789. S. Nos. 28-891/2 M.)

QUANTITY: 23 50-lb. bags and 10 100-lb. bags at San Francisco, Calif., in possession of Robert Aspinall Wholesale Co.

SHIPPED: 9-21-56, from Garfield, Wash.

LIBELED: 11-30-56, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-18-56. Default—destruction.

23883. Sweet mixed pickles and sweet pickle relish. (F. D. C. No. 39725. S. Nos. 39-348/9 M.)

QUANTITY: 74 cases, 4 1-gal. jars each, of mixed pickles, and 47 cases, 4 1-gal. jars each, of pickle relish, at Atlanta, Ga.

SHIPPED: 10-3-56, from Denmark, S. C., by Denmark Foods, Inc.

LABEL IN PART: (Jar) "Allendale Sweet Mixed Pickles [or "Sweet Pickle Relish"]."

LIBELED: 12-18-56, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects, insect parts, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-25-57. Default—destruction.

23884. Sweet pickle relish and sweet mixed pickles. (F. D. C. No. 39820. S. Nos. 27-254 M, 27-257 M.)

QUANTITY: 236 cases, 4 1-gal. jars each, of sweet pickle relish, and 18 cases, 4 1-gal. jars each, of sweet mixed pickles, at Birmingham, Ala.

SHIPPED: 10-20-56, from Denmark, S. C., by Denmark Foods, Inc.

LABEL IN PART: (Jar) "Palmetto Maid Sweet Pickle Relish [or "Sweet Mixed Pickles"]."

LIBELED: 12-14-56, N. Dist. Ala.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-14-57. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

23885. Stewed tomatoes. (F. D. C. No. 39794. S. No. 38-611 M.)

QUANTITY: 17 cases, 24 1-lb. cans each, at Danville, Ill.

SHIPPED: 11-4-52, from Stockton, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 12-3-56, E. Dist. Ill.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 1-7-57. Default—destruction.

23886. Tomato puree. (F. D. C. No. 39874. S. No. 67-193 M.)

QUANTITY: 84 cases, 6 cans each, at Baltimore, Md.

SHIPPED: 11-12-56 and 1-11-57, from Biglerville, Pa., by C. H. Musselman Co.

LABEL IN PART: (Can) "Musselman's * * * Tomato Puree Contents 6 lbs. 8 oz."

LIBELED: 2-14-57, Dist. Md.

CHARGE: 402 (a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-31-57. Consent—destruction.

23887. Tomato puree. (F. D. C. No. 39855. S. Nos. 59-091/2 M.)

QUANTITY: 52 cases, 24 cans each, and 62 cases, 48 cans each, at Philadelphia, Pa.

SHIPPED: Between 9-24-56 and 11-24-56, from Vineland, N. J., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Mountain Beauty Tomato Puree Contents 1 lb. 12 oz. [or 10-1/2 Oz.] * * * Packed for La Sierra Heights Canning Co., Inc., Buena Park, Calif."

LIBELED: 1-29-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained fly eggs and maggots; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 2-26-57. Default—destruction.

23888. Tomato juice. (F. D. C. No. 39863. S. No. 61-694 M.)

QUANTITY: 1,068 cases, 24 cans each, at Charleston, W. Va.

SHIPPED: During 1953, in interstate commerce.

LABEL IN PART: "Moon Rose Tomato Juice * * * Contents 1 Pt. 2 Fl. Oz. * * * Distributed by The Cooter Company, Chicago, Ill. * * * San Francisco, Calif."

LIBELED: On or about 2-12-57, S. Dist. W. Va.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: 2-26-57. Consent—claimed by Hubbard Grocery Co., Charleston, W. Va., and destroyed.

NUTS AND NUT PRODUCTS

23889. Shelled mixed nuts. (F. D. C. No. 39809. S. Nos. 41-137/8 M.)

QUANTITY: 12 cases, 12 7-oz. cans each, and 11 cases, 12 14-oz. cans each, at Blooming Prairie, Minn.

SHIPPED: Between 10-25-56 and 10-30-56, from Des Moines, Iowa, by Peanut Products Co., Div. of Peanut Corp. of America.

LABEL IN PART: (Can) "Buster Brand Mixed Salted Nuts * * * Ingredients—Virginia Peanuts—Cashews—Pecans—Almonds—Filberts or Brazils."

RESULTS OF INVESTIGATION: Examination showed that the article contained over 55 percent peanuts by weight.

LIBELED: 12-8-56, Dist. Minn.

CHARGE: 403 (a)—the label of the article, when shipped, bore a false and misleading vignette of mixed salted nuts showing very few peanuts.

DISPOSITION: 2-10-57. Default—turned over to Department of Public Welfare, State of Minnesota, for distribution to various State institutions, for food purposes.

23890. Shelled brazil nuts. (F. D. C. No. 39904. S. No. 40-752 M.)

QUANTITY: 3 33-lb. tins and 1 tin containing about 10 lbs. at St. Paul, Minn.

SHIPPED: 12-5-56, from New York, N. Y., by Pan American Foods Co., Inc.

LABEL IN PART: "Shelled by Jacob & Company Manaus—Brazil * * * Product of Bolivia."

LIBELED: 12-31-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained insect-contaminated nuts when shipped.

DISPOSITION: 2-12-57. Default—consumption by animals.

23891. Unshelled brazil nuts. (F. D. C. No. 39729. S. No. 48-443 M.)

QUANTITY: 100 100-lb. bags at Chicago, Ill.

SHIPPED: 12-3-56, from New York, N. Y., by Louis Jacobson & Bros.

LIBELED: 12-19-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained moldy and otherwise decomposed nuts when shipped.

DISPOSITION: 1-8-57. Consent—claimed by Tony Manzo & Co., Chicago, Ill. Segregated; 3,416 lbs. destroyed.

23892. Unshelled brazil nuts. (F. D. C. No. 39896. S. No. 65-070 M.)

QUANTITY: 6 bags at Knoxville, Tenn.

SHIPPED: 12-7-56, from Chicago, Ill., by Tony Manzo & Co.

LABEL IN PART: "Brazil Nuts Pro of Brazil."

LIBELED: 12-18-56, E. Dist. Tenn.

CHARGE: 402 (a) (3)—contained moldy and rancid nuts when shipped.

DISPOSITION: 1-29-57 and 1-31-57. Default—consumption by animals.

23893. Cashew nuts (2 seizure actions). (F. D. C. Nos. 39759, 39854. S. Nos. 60-817/9 M, 60-941 M.)

QUANTITY: 5 24-lb. cans at Arlington, Mass., and 143 25-lb. cans and 1 half-filled 25-lb. can at Boston, Mass.

SHIPPED: From India.

LIBELED: 1-21-57 and 1-28-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 3-5-57. John W. Leavitt Co., Boston, Mass., having appeared as claimant and the seizure actions having been consolidated, judgment of condemnation was entered and the article was released under bond to be brought into compliance with the law. The article was segregated, resulting in the destruction of 625 lbs. as unfit.

23894. Shelled peanuts. (F. D. C. No. 39861. S. No. 45-659 M.)

QUANTITY: 41 200-lb. bags at Suffolk, Va.

SHIPPED: 1-10-57, from Edenton, N. C., by Edenton Peanut Co., Inc.

LIBELED: 2-12-57, E. Dist. Va.

CHARGE: 402 (a) (3)—contained decomposed peanuts when shipped.

DISPOSITION: 4-15-57. Default—destruction.

23895. Unshelled pecans. (F. D. C. No. 39738. S. Nos. 48-471/2 M.)

QUANTITY: 183 bags containing about 4,576 lbs. and 71 bags containing about 1,915 lbs. at Chicago, Ill.

SHIPPED: 12-4-56 and 12-7-56, from Mississippi, by Ray Turkington.

LABEL IN PART: "Stuart Tested" or "Stuart Pecan Weighed & Tested."

LIBELED: 12-26-56, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained decomposed and shriveled nuts when shipped.

DISPOSITION: 1-11-57. Consent—claimed by Ray Turkington, Anna, Ill. The nuts were shelled, resulting in the release of 1,692 lbs. of nut meats as fit for food and in the destruction of 400 lbs. of unfit meats, together with the shells.

23896. Unshelled pecans. (F. D. C. No. 39763. S. No. 55-721 M.)

QUANTITY: 21 25-lb. bags at Cincinnati, Ohio.

SHIPPED: 10-17-56, from McRae, Ga., by Valda Wooten.

LABEL IN PART: (Bag) "Sugar Creek Brand Paper Shell Pecans Georgia's Finest."

LIBELED: 11-14-56, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained rancid, decomposed, and shriveled pecans when shipped.

DISPOSITION: 12-20-56. Default—given to an institution, for use as animal feed.

23897. Shelled walnuts. (F. D. C. No. 39860. S. Nos. 59-805/6 M.)

QUANTITY: 80 30-lb. ctns. and 20 25-lb. ctns. at Chicago, Ill.

SHIPPED: 12-10-56, from Modesto, Calif., by Haig Berberian.

LIBELED: 2-12-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insect filth and *E. coli*; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 3-4-57. Default—destruction.

23898. Shelled walnuts. (F. D. C. No. 39897. S. No. 42-946 M.)

QUANTITY: 38 25-lb. cases and 12 ctns. at Champaign, Ill.

SHIPPED: 11-1-56, from San Francisco, Calif.

LIBELED: 12-19-56, E. Dist. Ill.

CHARGE: 402 (a) (3)—contained insect-infested walnuts while held for sale.

DISPOSITION: 1-15-57. Default—destruction.

23899. Peanut butter. (F. D. C. No. 39879. S. No. 63-360 M.)
QUANTITY: 50 470-lb. drums at New York, N. Y.
SHIPPED: 1-16-57, from Boykins, Va., by Newark Packing Co., Inc.
LIBELED: 3-4-57, S. Dist. N. Y.
CHARGE: 402 (a) (3)—contained insect parts and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.
DISPOSITION: 4-11-57. Consent—claimed by Newark Packing Co., Inc., and converted into rodent poison.

23900. Peanut butter. (F. D. C. No. 39806. S. No. 34-165 M.)
QUANTITY: 26 cases, 12 unlabeled jars each, at Kansas City, Mo.
SHIPPED: 10-17-56, from Cordele, Ga.
RESULTS OF INVESTIGATION: The article was shipped as bulk peanuts, and upon arrival at Kansas City, Mo., was manufactured into peanut butter.
LIBELED: On or about 12-7-56, W. Dist. Mo.
CHARGE: 402 (a) (3)—contained insects and insect parts while held for sale.
DISPOSITION: 2-25-57. Default—delivered to a local institution and denatured for use as animal feed.

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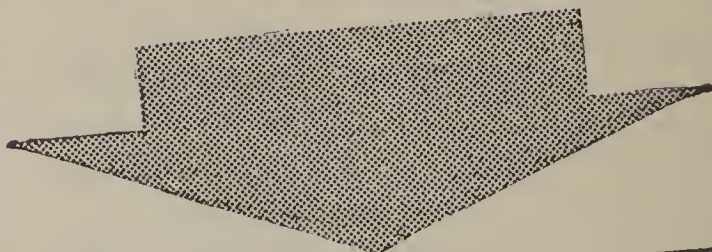
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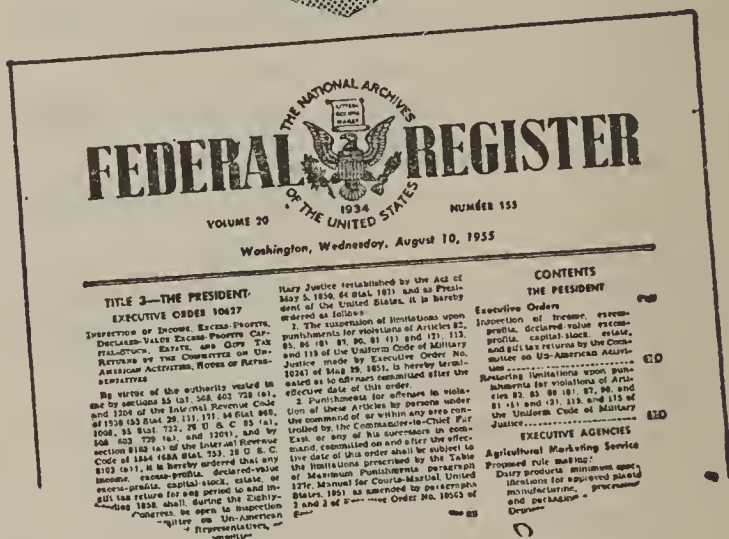
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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION
U. S. DEPARTMENT OF AGRICULTURENOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

23901-24000

FOODS

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere or a finding of guilty after trial; and (3) injunction proceedings in which a dismissal was entered following correction. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare,
September 7, 1958.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C.

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*SECTIONS OF FEDERAL, FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 23901-24000*

Adulteration, Section 402 (a) (2), the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of Section 408 (a) ; Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food ; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth ; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article ; Section 402 (b) (2), a substance had been substituted wholly or in part for the article ; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality ; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations ; Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity ; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading ; Section 403 (e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and/or (2) an accurate statement of the quantity of contents ; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard ; Section 403 (h) (1), the article purported to be and was represented as a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard ; Section 403 (i) (1), the article was not subject to the provisions of Section 403 (g) and its label failed to bear the common or usual name of the food ; Section 403 (i) (2), the article was not subject to the provisions of Section 403 (g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient ; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses ; Section 403 (k), the article contained a chemical preservative, and it failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIAL*

23901. Lemonade base. (F. D. C. No. 39785. S. No. 58-025 M.)

QUANTITY : 99 cases, 48 6-oz. cans each, at Omaha, Nebr.

SHIPPED : In 1950, from Anaheim, Calif.

LIBELED : 12-5-56, Dist. Nebr.

CHARGE : 402 (a) (3)—while held for sale, the article was unfit for food because of its unpalatable odor and flavor ; and 403 (a)—the label statement "Provides

*See also Nos. 23962-23965, 23977.

the minimum daily adult requirement of 30 milligrams Vitamin C" was false and misleading since the article did not contain the declared amount of Vitamin C.

DISPOSITION: 1-9-57. Default—destruction.

23902. Tea. (F. D. C. No. 39798. S. No. 39-914 M.)

QUANTITY: 23 chests at New Orleans, La.

SHIPPED: 11-21-56, from Chicago, Ill. This was a return shipment.

LIBELED: 11-30-56, E. Dist. La.

CHARGE: 402 (a) (3)—the article, when shipped, was unfit for food by reason of mustiness.

DISPOSITION: 2-11-57. Consent—claimed by S. A. Wald & Co., Inc., New York, N. Y. Segregated; of 2,639 lbs. actually seized, 184 lbs. were destroyed.

23903. Tea. (F. D. C. No. 40060. S. No. 53-248 M.)

QUANTITY: 36 chests, 4,082 lbs. total, at Galveston, Tex.

SHIPPED: 1-5-57, from Seatrain, N. J.

LIBELED: On or about 3-25-57, S. Dist. Tex.

CHARGE: 402 (a) (3)—contained moldy tea leaves and clumps of moldy leaves while held for sale.

DISPOSITION: 3-29-57. Consent—destruction.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

23904. Bread and rolls. (F. D. C. No. 40136. S. Nos. 60-835/9 M.)

INDICTMENT RETURNED: 10-4-57, Dist. Mass., against Andrew J. Puglise, t/a Tower Hill Bakery, Lawrence, Mass.

SHIPPED: Between 1-9-57 and 1-11-57, from Massachusetts to New Hampshire.

LABEL IN PART: (Pkg.) "Vienna Enriched Rolls" "French [or "Italian"] Enriched Bread."

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 11-14-57. Fine of \$400 and sentence of 1 year in jail. The fine and jail sentence were suspended and the defendant was placed on probation for 2 years.

FLOUR*

23905. Cookie flour. (F. D. C. No. 39909. S. No. 38-786 M.)

QUANTITY: 225 100-lb. bags at Jackson, Tenn., in possession of the Lucky Food Corp.

SHIPPED: 11-20-56, from Yukon, Okla.

LIBELED: 1-3-57, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

*See also Nos. 23919. 23972.

DISPOSITION: 2-6-57. Consent—claimed by Yukon Mill & Grain Co., Yukon, Okla., and denatured for use as animal feed.

23906. Flour. (F. D. C. No. 40068. S. No. 66-008 M.)

QUANTITY: 395 100-lb. bags at Oakland, Calif.

SHIPPED: 3-1-57, from Spokane, Wash., by Centennial Mills, Inc.

LABEL IN PART: (Bag) "Centennial Cake" "Fortuna" "Our Best Special" "Pandora Pastry" "Perfect Pastry" "Special White Mountain" "Sterling" "100% Whole Wheat."

LIBELED: 4-2-57, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine when shipped.

DISPOSITION: 4-23-57. Consent—claimed by Southern Pacific Co., San Francisco, Calif. Segregated; 122 100-lb. bags disposed of for use in the manufacture of animal feed.

23907. Flour. (F. D. C. No. 40113. S. No. 57-880 M.)

QUANTITY: 25 25-lb. bags at Ocala, Fla., in possession of Pillans & Smith Co., Inc.

SHIPPED: 12-10-56, from Enid, Okla.

LIBELED: 4-1-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-29-57. Default—destruction.

23908. Flour. (F. D. C. No. 40103. S. Nos. 62-586/7 M.)

QUANTITY: 614 100-lb. bags, at Newark, N. J., in possession of Lehrhoff's Bakery.

SHIPPED: Between 12-14-56 and 1-25-57, from Winona and Minneapolis, Minn.

LIBELED: 3-19-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained rodent urine and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-1-57. Consent—claimed by Irving H. Lehrhoff, t/a Lehrhoff's Bakery, and denatured into stock feed.

23909. Flour. (F. D. C. Nos. 40070, 40074. S. Nos. 42-905/6 M.)

QUANTITY: 172 10-lb. bags and 298 25-lb. bags at Morrilton, Ark., in possession of Arkansas Valley Wholesale Grocery Co.

SHIPPED: 10-25-56 and 11-15-56, from Shawnee, Okla.

LIBELED: 4-5-57, E. Dist. Ark.; amended libel on 4-15-57.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-31-57. Consent—claimed by Arkansas Valley Wholesale Grocery Co. Segregated; 82 10-lb. bags and 172 25-lb. bags denatured for use as animal food.

23910. Tapioca flour. (F. D. C. No. 40063. S. No. 56-567 M.)

QUANTITY: 5 bags, each containing 110¼ lbs., at Minneapolis, Minn.

SHIPPED: 11-1-55, from Chicago, Ill.

LIBELED: 3-21-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained live insects and insect larvae while held for sale.

DISPOSITION: 5-17-57. Default—destruction.

23911. Flour. (F. D. C. No. 39972. S. Nos. 63-843/4 M.)

INFORMATION FILED: 4-26-57, Dist. Colo., against the Long Hollow Milling Co., a partnership, Red Mesa, Colo.

SHIPPED: 8-25-56 and 9-12-56, from Colorado to New Mexico.

LABEL IN PART: (Bag) "25 Lbs. Net Wt. Enriched Staff of Life Flour" and "10 Lbs. Net Wt. Bakers Special Flour * * * Enriched."

CHARGE: 402 (a) (4)—the article (both brands) had been prepared and packed under insanitary conditions; 402 (b) (1)—valuable constituents, vitamin B-1, riboflavin, niacin and iron had been in part omitted and abstracted from the article; 403 (a)—the statement on the label of the article (Staff of Life brand, only), "8 ounces of Enriched Flour contain not less than the following proportions of the minimum daily requirements of Vitamin B-1 100%, Riboflavin 30%, Iron 65%; and 8 mgs. of Niacin," was false and misleading since 8 ozs. of the article contained less than the stated proportions of the minimum daily requirements of the body for vitamin B-1, riboflavin, and iron, and 8 ozs. of the article contained less than 8 mgs. of niacin; 403 (g) (1)—the article ("Staff of Life" brand, only), failed to conform to the definition and standard of identity for enriched flour since the article contained, per pound, less than 2.0 mgs. of thiamin (vitamin B-1), less than 1.2 mgs. of riboflavin, less than 16.0 mgs. of niacin, and less than 13.0 mgs. of iron.

PLEA: Guilty.

DISPOSITION: 6-7-57. Fine of \$525.

MACARONI AND NOODLE PRODUCTS*

23912. Macaroni. (F. D. C. No. 40116. S. Nos. 63-026/7 M.)

QUANTITY: 61 cases, 20 1 lb. pkgs. each, at Mount Vernon, N. Y.

SHIPPED: April, 1955, from Naples, Italy.

LIBELED: 4-10-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 5-3-57. Default—destruction.

23913. Macaroni and almonds. (F. D. C. No. 40107. S. Nos. 63-024/5 M.)

QUANTITY: 17 1-lb. ctns. of macaroni and 28 25-lb. ctns. of almonds, at New York, N. Y.

SHIPPED: In April, 1955, and on 3-9-56, from Naples, Italy, and Pittsburgh, Pa.

LIBELED: 4-10-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects (macaroni) and moldy nuts (almonds) while held for sale.

DISPOSITION: 5-3-57. Default—destruction.

23914. Spaghetti. (F. D. C. No. 39931. S. No. 33-677 M.)

QUANTITY: 6 cases, 24 1-lb. pkgs. each, of spaghetti at Vinita, Okla.

*See also No. 23920.

SHIPPED: 11-28-55 and 3-28-56, from Wichita, Kans.

LIBELED: 1-29-57, N. Dist. Okla.; amended libel 2-11-57.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 3-13-57. Default—destruction.

MISCELLANEOUS CEREALS*

23915. Unpopped popcorn. (F. D. C. No. 40118. S. Nos. 53-903/6 M.)

QUANTITY: 116 cases, 24 10-oz. jars, 27 cases, 24 10-oz. bags each, 12 cases, 12 2-lb. bags each, and 23 cases, 24 10-oz. cans each, at New Orleans, La.

SHIPPED: 9-14-56 and 10-18-56, from Cedar Rapids, Iowa.

LIBELED: 4-2-57, E. Dist. La.

CHARGE: 402 (a) (3)—contained insects, insect excreta, webbing and moldy kernels while held for sale.

DISPOSITION: 6-3-57. Default—destruction.

23916. Rice. (F. D. C. No. 40073. S. No. 63-669 M.)

QUANTITY: 25 100-lb. bags at Salt Lake City, Utah, in possession of Utah Wholesale Grocery Co.

SHIPPED: 2-15-57, from De Witt, Ark.

LIBELED: 4-3-57, Dist. Utah.

CHARGE: 402 (a) (3)—contained bird excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-8-57. Default—delivered to a public institution, for use as hog feed.

23917. Rice. (F. D. C. No. 40129. S. Nos. 57-297/8 M.)

QUANTITY: 238 10-lb. bags at Conway, S. C. in possession of Massey-Hite Wholesale Co.

SHIPPED: 1-22-57 and 2-16-57, from Abbeville, La., and Stuttgart, Ark.

LIBELED: 4-9-57, E. Dist. S. C.

CHARGE: 402 (a) (3)—contained rodent pellets and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-11-57. Default—consumption by animals.

23918. Rice and peanut butter. (F. D. C. No. 39660. S. Nos. 34-905 M, 34-909 M.)

QUANTITY: 12 cases, 40 24-oz. bags each, of rice and 10 cases, 24 13-oz. jars each, and 8 cases, 24 8½-oz. jars each, of peanut butter at Newport, Tenn.

SHIPPED: During 1945 and on 11-4-55, from Houston, Tex., and Suffolk, Va.

LIBELED: 11-2-56, E. Dist. Tenn.

CHARGE: 402 (a) (3)—while held for sale the rice contained insects, and the peanut butter contained rancid oil.

DISPOSITION: 12-12-56. Default—destruction.

23919. Rice and flour. (F. D. C. No. 39606. S. Nos. 57-990 M, 57-993/4 M.)

QUANTITY: 21 100-lb. bags of rice and 27 100-lb. bags of flour at North Kansas City, Mo., in the possession of Hershey Wholesale Grocery Co.

*See also Nos. 23959, 23972.

SHIPPED: 9-7-56, (rice), from Carlisle, Ark.; and 9-6-56, (flour), from Wichita, Kans.

LIBELED: On or about 10-26-56, W. Dist. Mo.

CHARGE: 402 (a) (3)—both articles contained rodent urine, and rice also contained rodent excreta and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-4-56. Default—consumption by animals.

23920. Rice and fried noodles. (F. D. C. No. 39361. S. Nos. 26-362 M, 40-464 M.)

INFORMATION FILED: 12-7-56, Dist. Minn., against Warren S. Woo, t/a Peking Food Products Co., Minneapolis, Minn.

ALLEGED VIOLATION: Between 5-9-56 and 7-13-56, while quantities of rice were being held for sale after shipment in interstate commerce, the defendant caused the article to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the article being adulterated. The information also alleged that on 7-9-56, the defendant shipped adulterated fried noodles from Minnesota to Wisconsin.

CHARGE: 402 (a) (3)—the rice contained rodent urine and rodent excreta, and the noodles contained rodent hair fragments; and 402 (a) (4)—the rice was held, and the noodles were prepared and packed, under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 4-17-57. Jail sentence of 1 year suspended. Defendant placed on probation for 2 years, on condition he sell his business within a reasonable time or clean up the building to the satisfaction of the probation officer and health officials.

23921. Wheat (4 seizure actions). (F. D. C. Nos. 40087, 40090, 40234. S. Nos. 20-860 M, 34-464 M, 34-466 M, 58-280 M, and 77-930 M.)

QUANTITY: 314,100 lbs. at Council Bluffs, Iowa, and 216,000 lbs. at North Kansas City, Mo.

SHIPPED: Between 4-3-57 and 4-19-57, from Bruning, Nebr. by Bruning Mills, Inc.

LIBELED: Between 4-16-57 and 4-30-57, S. Dist. Iowa and W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insect-damaged kernels and rodent excreta when shipped.

DISPOSITION: 4-29-57 and 5-6-57. Consent—claimed by Bruning Mills, Inc., and converted to animal feed.

23922. Wheat. (F. D. C. No. 40066. S. No. 58-872 M.)

QUANTITY: 103,800 lbs. at Minneapolis, Minn.

SHIPPED: 3-18-57, from Minneapolis, Minn., by Walsh Grain Co., and consigned to Kansas City, Mo.

LIBELED: 3-22-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-10-57. Consent—claimed by Walsh Grain Co. and denatured for use as animal feed.

23923. Wheat. (F. D. C. No. 40085. S. No. 56-877 M.)

QUANTITY: 86,000 lbs. at Minneapolis, Minn.

SHIPPED: 3-22-57, from Watertown, S. Dak., by Watertown Milling Co.

LIBELED: 4-16-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-29-57. Consent—claimed by Watertown Milling Co. Segregated; 5,730 lbs. destroyed, 3,060 lbs. used for animal feed.

23924. Wheat. (F. D. C. No. 40082. S. No. 71-463 M.)

QUANTITY: 91,800 lbs. at Duluth, Minn.

SHIPPED: 4-2-57, from Mekinock, N. Dak., by Moorhead Seed & Grain Co.

LIBELED: 4-10-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-15-57. Consent—claimed by Great Plains Supply Co., St. Paul, Minn. Segregated; 10,550 lbs. destroyed.

23925. Wheat. (F. D. C. No. 40083. S. No. 71-250 M.)

QUANTITY: 90,000 lbs., at Minneapolis, Minn.

SHIPPED: 3-20-57, from New England, N. Dak., by Osborne-McMillan Elevator Co.

LIBELED: 4-10-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 6-15-57. Consent—claimed by Osborne-McMillan Elevator Co. and denatured for use as animal feed.

23926. Wheat. (F. D. C. No. 40079. S. No. 71-461 M.)

QUANTITY: 107,630 lbs. at Minneapolis, Minn.

SHIPPED: 3-29-57, from Guelph, N. Dak. by Guelph Farmers Elevator Co.

LIBELED: 4-5-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 4-10-57. Consent—claimed by Guelph Farmers Elevator Co. and processed into industrial alcohol.

23927. Wheat. (F. D. C. No. 40077. S. No. 71-066 M.)

QUANTITY: 91,200 lbs. at Minneapolis, Minn.

SHIPPED: 3-25-57, from Scranton, N. Dak., by Scranton Equity Exchange.

LIBELED: 4-3-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 4-9-57. Consent—claimed by Scranton Equity Exchange. Segregated; 7,250 lbs. destroyed.

23928. Wheat. (F. D. C. No. 40075. S. No. 71-431 M.)

QUANTITY: 89,240 lbs. at Minneapolis, Minn.

SHIPPED: 3-25-57, from Dupree, S. Dak., by Farmers Coop. Elevator.

LIBELED: 4-3-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 4-10-57. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 13,230 lbs. destroyed.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS**CHOCOLATE AND COCOA**

23929. Milk chocolate. (F. D. C. No. 40297. S. No. 72-840 M.)

QUANTITY: 30 cases, each containing 50 lbs. of chocolate in 10-lb. slabs at Chicago, Ill.

SHIPPED: 3-12-57 and 3-14-57, from Buffalo, N. Y., by Merckens Chocolate Co., Inc.

LABEL IN PART: (Slab) "Merckens Catalina Milk."

LIBELED: 5-29-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 7-9-57. Default—destruction.

23930. Cocoa beans. (F. D. C. No. 40054. S. No. 72-832 M.)

QUANTITY: 135 130-lb. bags at Milwaukee, Wis., in possession of the Badger Storage Corp.

SHIPPED: 10-19-56, from New York, N. Y.

LIBELED: 3-15-57, E. Dist. Wis.

CHARGE: 402 (a) (3)—contained rodent pellets, insect excreta and webbing; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-25-57. Consent—claimed by Ambrosia Chocolate Co., Milwaukee, Wis. Segregated; 1,687 lbs. destroyed.

23931. Cocoa and chocolate flavored sirup. (F. D. C. No. 40112. S. Nos. 33-373/4 M.)

QUANTITY: 4,340 lbs. of cocoa and 186 cases, 12 jars each, of chocolate flavored sirup, at Iola, Kans.

SHIPPED: Approximately 2 years prior to the filing of the libel, from Milwaukee, Wis., and Chicago, Ill.

RESULTS OF INVESTIGATION: The chocolate flavored sirup was prepared by the consignee from bulk cocoa from the same sources as the above bulk cocoa.

LIBELED: 4-18-57, Dist. Kans.

CHARGE: 402 (a) (3)—cocoa contained adult cigarette and spider beetles and larvae, and sirup contained larvae, insect fragments, and rodent hair fragments while held for sale.

DISPOSITION: 5-29-57. Default—destruction.

CONFECTIONERY

23932. Candy. F. D. C. No. 39915. S. No. 43-439 M.)

QUANTITY: 21 ctns., each containing 12 8-oz. candy bars at East St. Louis, Ill.

SHIPPED: During September or October, 1956, from Davenport, Iowa.

LIBELED: 1-10-57, E. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 2-5-57. Default—destruction.

23933. Candy. (F. D. C. No. 39958. S. No. 34-455 M.)

QUANTITY: 66 boxes, each containing 24 candy bars at Omaha, Nebr.

SHIPPED: 1-30-57, from Kansas City, Mo., by Hill Candy Co.

LABEL IN PART: "A Martha Deane Product Monkey Bar Net Wt. 1¼ Oz."

LIBELED: 2-27-57, Dist. Nebr.

CHARGE: 402 (a) (3)—contained rodent hair fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 4-1-57. Default—consumption by animals.

SIRUP AND SUGAR

23934. Sorghum sirup. (F. D. C. No. 39939. S. No. 33-625 M.)

QUANTITY: 111 cases, 12 4½-lb. tins each, 59 cases, 12 2-lb. jars each, 15 cases, 6 9-lb. tins each, and one case containing 4 9-lb. tins at Haileyville, Okla.

SHIPPED: During 1956, from various points in Louisiana, by C. S. Watson.

LABEL IN PART: (Jars & Tins) "Watson's Indian Creek Brand Pure Sorghum Made From Cane."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately ¼ sorghum sirup and that the remainder consisted of sucrose or invert sugar sirups.

LIBELED: 2-4-57, E. Dist. Okla.

CHARGE: 402 (b) (2)—sucrose or invert sugar sirups had been substituted in part for sorghum when shipped; and 403 (a)—the label statement "Pure Sorghum Made From Cane" was false and misleading.

DISPOSITION: 4-1-57. Default—destruction.

23935. Sorghum sirup. (F. D. C. No. 39923. S. No. 30-869 M.)

QUANTITY: 103 2-lb. jars and 5 4½-lb. tins at Evansville, Ind.

SHIPPED: During August, 1956, from Coffeyville, Kans., by Ray Sloan.

LABEL IN PART: (Jars & Tins) "Watson's Indian Creek Brand Pure Sorghum Made From Cane."

LIBELED: 2-20-57, S. Dist., Ind.; amended libel on or about 3-7-57.

CHARGE: 402 (b) (2)—sucrose or invert sugar sirups had been substituted in part for sorghum when shipped; and 403 (a)—the label statement "Pure Sorghum Made From Cane" was false and misleading as applied to the article, which also contained sucrose or invert sugar sirups.

DISPOSITION: 5-10-57. Default—delivered to a charitable institution.

23936. Sugar. (F. D. C. No. 39895. S. No. 55-749 M.)

QUANTITY: 320 bales, each containing 12 5-lb. bags at Cincinnati, Ohio.

SHIPPED: 11-21-56, from Philadelphia, Pa., by the American Sugar Refining Co.

LABEL IN PART: (Bag) "5 Lbs. Net Wt. Domino Pure Cane Sugar Only 18 Calories Per Teaspoon Low in Calories High in Energy."

LIBELED: 12-21-56, S. Dist. Ohio.

CHARGE: 403 (a)—the statement "Low in Calories," on the label of the article when shipped, was false and misleading since the article was not low in calories.

DISPOSITION: 1-16-57. Consent—claimed by American Sugar Refining Co. The sugar was removed from the bags, labeled as described above, and the bags were destroyed.

23937. Sugar. (F. D. C. No. 40058. S. No. 71-346 M.)

QUANTITY: 54 100-lb. bags at Minneapolis, Minn., in possession of Minneapolis Bottling Co.

SHIPPED: 2-7-57, from Brooklyn, N. Y.

LIBELED: 3-19-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine and rodent pellets; 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-10-57. Consent—claimed by Minneapolis Bottling Co. Segregated; 700 lbs. denatured and sold to a feed mill.

FEEDS AND GRAINS

23938. Cottonseed meal. (F. D. C. No. 39978. S. No. 545 M.)

INFORMATION FILED: 6-12-57, N. Dist. Tex., against Tindall Cotton Oil Corp., Twitty, Tex.

SHIPPED: 12-19-55, from Texas to Oklahoma.

LABEL IN PART: (Bag) "100 Pounds (Net) Tiger Brand 41% Protein Cottonseed Meal Prime Quality."

CHARGE: 403 (a)—when shipped, the name of the article "Tiger Brand 41% Protein Cottonseed Meal" and the label statement "Crude Protein not less than * * * 41.00 Per Cent" were false and misleading since the article contained less than 41 percent protein.

PLEA: Guilty.

DISPOSITION: 7-22-57. \$500 fine.

23939. Fish meal. (F. D. C. No. 39479. S. Nos. 161 M, 163 M.)

QUANTITY: 150 100-lb. bags, and 280 110-lb. bags at Washington Grove, Md.

SHIPPED: Between 7-19-56 and 8-16-56, from New York, N. Y., by Marine & Animal By-Products Corp.

LABEL IN PART: (Bag) "Fish Meal Produce of South West Africa" "Mapco * * * Product of Chile."

LIBELED: 9-25-56, Dist. Md.

CHARGE: 402 (b) (1)—a valuable constituent, fish meal, had been wholly or in part omitted from the article when shipped; and 402 (b) (2)—poultry feathers had been substituted in part for fish meal.

DISPOSITION: 10-17-56. Consent—claimed by Marine & Animal By-Products Corp. and relabeled.

23940. Sheep range wafers. (F. D. C. No. 39555. S. No. 25-476 M.)

QUANTITY: 32 100-lb. unlabeled bags at Melville, Mont.

SHIPPED: 2-1-56, from Sioux Falls, S. Dak., by Sharp Milling Co.

LIBELED: 9-14-56, Dist. Mont.

CHARGE: 403 (e)—when shipped, the article failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; 403 (i)

(1)—the label failed to bear the common or usual name of the article; and
403 (i) (2)—the label failed to bear the common or usual name of each ingredient.

DISPOSITION: 5-17-57. Default—destruction.

FISH AND SHELLFISH*

23941. Smelts and chubs. (F. D. C. No. 40093. S. Nos. 62-665/7 M.)

QUANTITY: 1,450 lbs. of smelts and 474 lbs. of chubs at New York, N. Y.

SHIPPED: Between 11-8-54 and 11-9-54, from Boston, Mass., and 5-28-56, from Chicago, Ill.

LIBELED: 3-15-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rancid fish (smelts), and decomposed fish (chubs) while held for sale.

DISPOSITION: 4-10-57. Default—destruction.

23942. Frozen blowfish tails and frozen mackerel. (F. D. C. No. 40130. S. Nos. 62-673 M, 62-676/7 M.)

QUANTITY: 775 lbs. of blowfish tails in 16 50-lb. ctns. and 703 lbs. of frozen mackerel in 8 ctns., and 4,027 lbs. of frozen mackerel in boxes at Monmouth Beach, N. J.

SHIPPED: Between 6-30-54 and 6-25-56, from New York, N. Y.

LIBELED: 4-10-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed fish while held for sale.

DISPOSITION: 5-28-57. Default—destruction.

23943. Frozen rosefish fillets. (F. D. C. No. 40125. S. No. 61-193 M.)

QUANTITY: 100 10-lb. ctns., 10 pkgs. each, at Boston, Mass.

LABEL IN PART: (Pkg.) "Georges Bank Frosted Rosefish Fillets."

SHIPPED: The fillets were from fish caught in the waters of the Atlantic Ocean, outside the limits of Massachusetts, by the fishing vessels "Olympia LaRosa" and "Pilgrim" and landed at Boston, Mass., on 3-19-57 and 3-20-57.

LIBELED: 4-5-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 5-15-57. Default—delivered to a public institution, for use as animal feed.

23944. Frozen walleyed pike fillets. (F. D. C. No. 40056. S. Nos. 56-819/20 M. 71-414/5 M.)

QUANTITY: 28 cases, 4 ctns. each, at Mason City, Iowa.

SHIPPED: 1-19-57, from Winnipeg, Canada, by Booth Fisheries Canadian Co., Ltd.

LABEL IN PART: (Ctn.) "Product of Canada S/F Walleyed Pike Fillets 15 lbs."

RESULTS OF INVESTIGATION: Examination showed the article contained added water in the form of ice, and the weight of the thawed fish was from approximately 8.8 percent to 13.5 percent less than 15 pounds.

*See also Nos. 23977, 23999.

LIBELED: 3-19-57, N. Dist. Iowa.

CHARGE: 402 (b) (2)—when shipped, water in the form of ice had been substituted in part for fish; 402 (b) (4)—water in the form of ice had been added to the article and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 4-10-57. Consent—claimed by Booth Fisheries Corp. and relabeled as “13 lbs.”

23945. Frozen walleyed pike fillets. (F. D. C. No. 40057. S. No. 56-821 M.)

QUANTITY: 4 cases, 4 ctns. each, at Mason City, Iowa.

SHIPPED: 1-29-57, from Winnipeg, Canada, by Booth Fisheries Canadian Co., Ltd.

LABEL: (Ctn.) “Product of Canada S/F Walleyed Pike Fillets, 15 Lbs.”

RESULTS OF INVESTIGATION: Examination showed the article contained added water in the form of ice and that the weight of the thawed fish was approximately 10.5 percent less than 15 pounds.

LIBELED: 3-19-57, N. Dist. Iowa.

CHARGE: 402 (b) (2)—when shipped, water in the form of ice had been substituted in part for fish; 402 (b) (4)—water in the form of ice had been added to the article and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 4-10-57. Consent—claimed by Booth Fisheries Corp. and relabeled as “13 lbs.”

23946. Frozen walleyed pike fillets. (F. D. C. No. 39795. S. Nos. 25-989 M, 25-993 M.)

QUANTITY: 55 ctns. at Des Moines, Iowa.

SHIPPED: 10-4-56, from Winnipeg, Canada, by Selkirk Fisheries, Ltd.

LABEL IN PART: (Ctn.) “15 lbs. Net Queen of Lakes Canadian Walleyed Pike Fillets Product of Canada.”

RESULTS OF INVESTIGATION: Examination showed the article contained added water in the form of ice. The weight of the fish when thawed was approximately 18 percent less than 15 pounds.

LIBELED: 11-30-56, S. Dist. Iowa.

CHARGE: 402 (b) (2)—when shipped, water in the form of ice had been substituted in part for fish; 402 (b) (4)—water in the form of ice had been added to the article and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents since the statement on the label, namely, “15 lbs.” was inaccurate.

DISPOSITION: 1-7-57. Consent—claimed by E. C. Gustafson, Des Moines, Iowa. The fish were relabeled with the statement “12 pounds net” and sold to a local restaurant which had agreed that it would not be resold as frozen fish, but would be prepared for service in its dining room.

23947. Frozen walleyed pike fillets. (F. D. C. No. 40114. S. Nos. 56-828/31 M, 56-834 M.)

QUANTITY: 160 bxs., at Eau Claire, Wis.

SHIPPED: Between 12-26-57 and 2-6-57, by Selkirk Fisheries, Ltd. (71 bxs.); 3-7-57, by Keystone Fisheries, Ltd. (24 bxs.); 2-19-57, by Booth Fisheries (17 bxs.); and 2-26-57, by Manitoba Fisheries, Ltd. (18 bxs.), all of Winnipeg, Canada.

LABEL: (Box) "Quick Frozen Delicia Pak * * * 15 lbs. 6305 * * * Product of Canada" or "6-8 Oz. B. F. Product of Canada S./F. Walleyed Pike 15 lbs. Net." or "Queen of Lakes Brand Fillets * * * Size 8-10 oz. * * * 15 lbs. Net * * * Product of Canada" or "Keystone Brand Walleye Pike Fillets 15 lbs. Net. * * * Skinless Product of Canada" or "Queen of Lakes Brand Fillets * * * Size 6-8 Oz. 15 Lbs. Net * * * Canadian Walleyed Pike Fillets."

RESULTS OF INVESTIGATION: Examination showed the article contained added water in the form of ice. The weight shortage of thawed fish was from approximately 10.4 to 21.5 percent.

LIBELED: 3-29-57, W. Dist. Wis.

CHARGE: 402 (b) (2)—when shipped, water in the form of ice had been substituted in part for fish; 402 (b) (4)—water in the form of ice had been added to the article and packed therewith so as to increase its bulk or weight and reduce its quality; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 5-1-57. Default—given to a charitable institution.

23948. Frozen glazed walleyed pike fillets. (F. D. C. No. 39796. S. Nos. 25-991/2 M.)

QUANTITY: 67 ctns. at Des Moines, Iowa.

SHIPPED: 7-14-56, from Winnipeg, Canada, by Keystone Fisheries, Ltd.

LABEL IN PART: (Ctn.) "Keystone Walleye Pike Fillets 15 Lbs. Product of Canada."

RESULTS OF INVESTIGATION: Examination showed the article contained added water in the form of ice. The weight of the fish when thawed was approximately 10 percent less than 15 pounds.

LIBELED: 11-30-56, S. Dist. Iowa.

CHARGE: 402 (b) (2)—when shipped, water in the form of ice had been substituted in part for fish; 402 (b) (4)—water in the form of ice had been added to the article and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 1-30-57 Consent—claimed by Walter Meier, Inc., Milwaukee, Wis. Relabeled as "13 pounds net" and sold to an institution for its own use.

23949. Canned carp fillets. (F. D. C. No. 39712. S. No. 47-879 M.)

QUANTITY: 52 30-lb. cans at Newark, N. J.

SHIPPED: 6-18-56, from Spirit Lake, Iowa.

RESULTS OF INVESTIGATION: The article was repacked into cans at Newark, N. J.

LIBELED: 12-5-56, Dist. N. J.

CHARGE: 402 (a) (3)—contained scavenger flies while held for sale.

DISPOSITION: 1-15-57. Default—destruction.

23950. Canned Pacific mackerel. (F. D. C. No. 39868. S. Nos. 24-373 M, 50-138 M.)

QUANTITY: 148 ctns., 48 cans each, at East Hartford, Conn.

SHIPPED: 11-21-56, from San Francisco, Calif., by Parrott & Co.

LABEL IN PART: (Can) "Sultana Brand Mackerel * * * Net Wt. 15 oz."

LIBELED: 2-8-57, Dist. Conn.; amended libel 2-14-57.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 5-28-57. Consent—claimed by Pan-Pacific Fisheries, Inc., Terminal Island, Calif. Segregated; 77 ctns. destroyed and the remainder of the article, found to be good, was delivered to a Federal institution for consumption by the inmates.

23951. Oysters. (F. D. C. No. 39898. S. No. 67-067 M.)

QUANTITY: 2 barrels containing a total of 38 cans at St. Joseph, Mich.

SHIPPED: 12-18-56, from Annapolis, Md., by McNasby Oyster Co.

LABEL IN PART: (Can) "Pearl Brand * * * Oysters * * * 1 Gallon."

LIBELED: 12-26-56, W. Dist. Mich.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters, when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 2-5-57. Default—destruction.

23952. Oysters. (F. D. C. No. 40064. S. No. 53-907 M.)

QUANTITY: 117 pts. at Los Angeles, Calif.

SHIPPED: 3-16-57, from Houma, La., by C. Cenac Co.

LABEL IN PART: "Pelican Brand Oysters."

LIBELED: 3-20-57, S. Dist. Calif.

CHARGE: 402 (b) (2)—when shipped, water had been substituted in part for oysters; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 4-10-57. Default—delivered to a charitable institution.

23953. Oysters. (F. D. C. No. 39719. S. Nos. 27-579 M, 27-640 M.)

QUANTITY: 387 pts. at Pensacola, Fla.

SHIPPED: 12-4-56, from Mobile, Ala., by Southern Fish & Oyster Co.

LABEL IN PART: "Atkins Brand Fresh Standard Oysters, Alabama Permit No. 4 * * * 1 Pint * * * Graham Seafood Co., Coden, Alabama."

LIBELED: 12-12-56, N. Dist. Fla.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed with them to increase their bulk or weight and reduce their quality.

DISPOSITION: 1-10-57. Default—destruction.

23954. Frozen breaded shrimp. (F. D. C. No. 39388. S. Nos. 31-818 M, 39-212 M, 39-220 M, 51-622 M, 51-628 M.)

INFORMATION FILED: 2-8-57, S. Dist. Fla., against William Capland, t/a South Coast Quick Freezing & Packing Co., Miami, Fla.

SHIPPED: Between 9-6-55 and 3-23-56, from Florida to Georgia, Michigan, and Texas.

LABEL IN PART: (Ctn.) "Southcoast Frozen Large Fantail Breaded Shrimp Net Wt. 10 oz."

CHARGE: 402 (a) (3)—contained fly parts, maggots, maggot parts, and decomposed shrimp; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 3-1-57, \$750 fine, and probation for 2 years.

23955. Frozen shrimp pieces. (F. D. C. No. 40076. S. No. 71-351 M.)

QUANTITY: 73 cases, 12 3-lb. pkgs. each, at Duluth, Minn.

SHIPPED: 11-19-56, from Corpus Christi, Tex., by Nueces Provision Co.

LABEL IN PART: (Pkg.) "Shrimp Meat Pieces."

LIBELED: 4-3-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained decomposed shrimp pieces when shipped.

DISPOSITION: 5-15-57. Consent—claimed by Chun King Sales, Inc., Duluth, Minn. Segregated; 1,773 lbs. made into fertilizer.

FRUITS AND VEGETABLES

CANNED FRUIT

23956. Canned boysenberries. (F. D. C. No. 40363. S. No. 70-894 M.)

QUANTITY: 23 cases, 6 6-lb. 7-oz. cans each, at Des Moines, Iowa.

SHIPPED: 5-31-55, from Salem, Oreg.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 6-27-57, S. Dist. Iowa.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-9-57. Consent—destruction.

23957. Canned prune plums. (F. D. C. No. 40386. S. No. 71-538 M.)

QUANTITY: 18 cases, 24 1-lb. 13-oz. cans each, at St. Paul, Minn.

SHIPPED: 6-26-56, from Wenatchee, Wash.

RESULTS OF INVESTIGATION: Analysis showed that the article was undergoing chemical decomposition.

LIBELED: 8-5-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 9-18-57. Default—destruction.

DRIED FRUIT

23958. Dates. (F. D. C. No. 40256. S. No. 71-473 M.)

QUANTITY: 24 15-lb. ctns., at Bismarck, N. Dak.

SHIPPED: During 1955, from California.

LIBELED: 5-15-57, Dist. N. Dak.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-1-57. Default—destruction.

23959. Raisins, rice and unshelled mixed nuts. (F. D. C. No. 40120. S. Nos. 57-900/1 M, 57-903 M.)

QUANTITY: 13 30-lb. boxes of raisins, 6 100-lb. bags of rice and 51 cases, 24 1-lb. bags each, of unshelled mixed nuts at Orlando, Fla., in possession of Thomas & Howard Co.

SHIPPED: Between 8-25-56 and 2-14-57, from San Francisco and Modesto, Calif., and De Witt, Ark.

LIBELED: 4-4-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—the raisins contained insects, the nuts contained insects and decomposed nuts, and the rice contained bird excreta; and 402 (a) (4)—the raisins were held under insanitary conditions.

DISPOSITION: 6-12-57. Default—destruction.

FRESH FRUIT

23960. Fresh blueberries. (F. D. C. No. 40504. S. No. 75-997 M.)

QUANTITY: 12 crates, 24 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-13-57, from Wolfeboro, N. H., by John Eastman.

LIBELED: 8-13-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained maggots when shipped.

DISPOSITION: 9-12-57. Default—destruction.

23961. Fresh blueberries. (F. D. C. No. 40798. S. No. 76-232 M.)

QUANTITY: 17 crates, 32 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-29-57, from Yarmouth, Maine, by Homer Tibbetts.

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-29-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained a filthy substance when shipped.

DISPOSITION: 9-16-57. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS*

23962. Cider. (F. D. C. No. 39853. S. No. 60-931 M.)

QUANTITY: 19 cases, 12 1-qt. btls. each, and 110 1-qt. btls. at Dorchester, Mass.

SHIPPED: 11-28-56 and 1-11-57, from Buckfield, Maine, by Buckfield Packing Co.

LABEL IN PART: (Btl.) "Bessey's Brand * * * Preserved by Pasteurization * * * Sweet Cider."

LIBELED: 1-28-57, Dist. Mass.

CHARGE: 403 (a)—the label statement "Preserved by Pasteurization" was false and misleading as applied to the article, which contained sodium benzoate; and 403 (k)—the article contained a chemical preservative, sodium benzoate, and failed to bear labeling stating that fact.

DISPOSITION: 4-9-57. Default—delivered to a public institution for its use, and not for sale.

*See also No. 23977.

23963. Fermented grape juice. (F. D. C. No. 40091. S. No. 28-954 M.)

QUANTITY: 15,200 gals. at Chicago, Ill.

SHIPPED: 12-17-56, from Fresno, Calif., by Vie-Del Grape Products Co.

RESULTS OF INVESTIGATION: A quantity of grape juice concentrate in bulk was shipped as described above. Upon receipt in Chicago, 4,000 gals. of the concentrate were reconstituted with water and fermented to make a total of 15,200 gals. of fermented grape juice.

LIBELED: 3-8-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—the concentrate contained insect filth when shipped; and 402 (a) (4)—the concentrate had been prepared under insanitary conditions.

DISPOSITION: 3-29-57. Default—destruction.

23964. Fresh orange juice. (F. D. C. No. 39859. S. No. 50-136 M.)

QUANTITY: 520 ctns. at Bridgeport, Conn.

SHIPPED: 1-3-57, from Glendale, N. Y., by Florida Fresh-Up Daily Juice, Inc.

LABEL IN PART: "Borden's Fresh Orange Juice Contents One Quart Liquid."

LIBELED: 2-1-57, Dist. Conn.

CHARGE: 402 (b) (2)—water had been substituted in part for orange juice when shipped; 402 (b) (4)—water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (a)—the label statement "Fresh Orange Juice" was false and misleading.

DISPOSITION: 2-22-57. Consent—destruction.

23965. Fresh orange juice. (F. D. C. No. 39750. S. No. 50-133 M.)

QUANTITY: 26 cases, 12 ctns. each, at New Haven, Conn.

SHIPPED: 11-29-56, from New York, N. Y., by Farm Fresh Cream Wip Corp.

LABEL IN PART: (Ctn.) "Golden Gift 100% Pure Florida Orange Juice Rich in Vitamin C * * * Ready to Serve * * * Produced by Golden Gift, Inc., Deland Florida * * * Contents One Quart Liquid."

LIBELED: 1-11-57, Dist. Conn.

CHARGE: 402 (b) (2)—water had been substituted in part for orange juice when shipped; 402 (b) (4)—water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (a)—the label statement "100% Pure Florida Orange Juice" was false and misleading as applied to a product which contained approximately 40 per cent added water.

DISPOSITION: 2-16-57. Default—destruction.

PRESERVES

23966. Strawberry preserves. (F. D. C. No. 39667. S. Nos. 54-195 M, 54-197 M.)

QUANTITY: 3 cases, 6 72-oz. jars each, and 10 cases, 12 24-oz. jars each, at Vancouver, Wash.

SHIPPED: 9-17-56, from Salem, Oreg., by Willamette Valley Preserving Co.

LABEL IN PART: (Jar) "Mary's Homemade Pure Strawberry Preserves."

LIBELED: 11-7-56, W. Dist. Wash.

CHARGE: 403 (g) (1)—when shipped, the article failed to conform to the definition and standard of identity for strawberry preserves, since the soluble solids content of the article was less than 68 percent and the article was deficient in fruit.

DISPOSITION: 1-29-57. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

23967. Dried pink beans. (F. D. C. No. 39980. S. Nos. 32-565 M, 46-389/91 M, 46-554 M.)

INFORMATION FILED: 5-22-57, N. Dist. Calif., against Woodland Warehouses, a partnership, Woodland, Calif., and Kenneth E. Brown and Philip R. Collins, partners.

SHIPPED: Between 2-27-56 and 3-7-56, from California to Pennsylvania.

LABEL IN PART: (Bag) "Recl. Pink Beans Pkd by S B G Coop K. L. Calif. 36 x 43 100 Lbs. Net Weight When Packed," "California Pink Beans 100 Lbs. Net Weight When Packed Packed by SBG Coop. K. L. Calif.," "US No. 1 Pink Beans Pkd. by SBG Coop, K. L. Calif. 100 Lbs. When Packed," and "Rosita Brand California Pale Pink Beans Grown and Packed by Bean Growers Ass'n of Calif., Sacramento, Calif. Net Weight 100 Lbs. When Packed."

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and when shipped, contained a pesticide chemical, namely, a fluorine compound which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on beans as the result of post harvest treatment, has been prescribed by regulations.

PLEA: Nolo contendere.

DISPOSITION: 11-7-57. Each defendant fined \$125.

23968. Dried pink beans and black-eyed peas. (F. D. C. No. 39981. S. Nos. 1-444 M, 14-781 M, 29-195 M.)

INFORMATION FILED: 5-22-57, N. Dist. Calif., against Sutter Basin Growers Cooperative, a corporation, Knights Landing, Calif., and Wallace McWilliam, Manager.

SHIPPED: On 2-20-56 and 3-2-56, from California to Puerto Rico and Texas.

LABEL IN PART: (Bag) "Recl. Pink Beans" and "Net Weight 100 Lbs. When Packed Recl. Blackeyes Grown by a member of Bean Growers Ass'n of Calif. Sacramento, Calif."

CHARGE: 402 (a) (2)—the articles were raw agricultural commodities and contained, when shipped, a pesticide chemical, namely, a fluorine compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on beans and black-eyed peas as the result of post harvest treatment has been prescribed by regulations.

PLEA: Nolo contendere.

DISPOSITION: 11-7-57. Each defendant fined \$75.

23969. Dried lima beans. (F. D. C. No. 39908. S. No. 33-596 M.)

QUANTITY: 156 100-lb. bags at North Kansas City, Mo.

*See also No. 23977.

SHIPPED: 12-13-56, from Oxnard, Calif.

RESULTS OF INVESTIGATION: The article was damaged, and repacked in transit into cottonseed meal contaminated sacks.

LIBELED: On or about 1-7-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—the article contained cottonseed meal contamination and water damaged beans while in interstate commerce, and while held for sale; 403 (e) (1)—the article failed to bear a label containing the name and place of business of the manufacturer or distributor; 403 (e) (2)—it failed to bear a label containing an accurate statement of the quantity of contents; and 403 (i) (1)—its label failed to bear the common or usual name of the article.

DISPOSITION: 2-25-57. Consent—claimed by Aileen Quirk & Sons, Inc., Oxnard, Calif. Segregated and cleaned; 800 lbs. destroyed.

23970. Frozen corn on the cob and frozen strawberries. (F. D. C. No. 39883. S. Nos. 62-100 M, 63-021/3 M.)

QUANTITY: 43 ctns., each containing 18 pkgs. and 102 ctns., each containing 24 pkgs. of 2 ears of corn each, 141 ctns., each containing 4 doz. ears of corn, 43 cases, each containing 5 doz. ears of corn and 45 30-lb. cans of sliced strawberries at Brooklyn, N. Y.

SHIPPED: Between 9-13-55 and 6-2-56, from Ripon, Wis., Ontario, Oreg., and Knoxville, Tenn.

LIBELED: 3-5-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed substances while held for sale.

DISPOSITION: 4-19-57. Default—destruction.

23971. Canned peas. (F. D. C. No. 40098. S. No. 69-344 M.)

QUANTITY: 61 cases, 48 8½-oz. cans each, at Philadelphia, Pa.

SHIPPED: 12-22-55, from Auburn, N. Y., by H. C. Hemingway & Co.

LABEL IN PART: (Can) "Schuyler *** Sweet Wrinkled Peas."

LIBELED: 3-15-57, E. Dist. Pa.

CHARGE: 403 (h) (1)—when shipped, the quality of the article fell below the standard of quality for canned peas, since the article was a sweet wrinkled variety of peas and the alcohol-soluble solids of peas in the container were more than 21 per cent, the maximum permitted by the regulations, and the label of the article failed to bear, in the manner and form specified by regulations, a statement that the article fell below such standard.

DISPOSITION: 4-15-57. Default—destruction.

23972. Dried pea beans, dried Great Northern beans, dried lima beans, salt, plain flour, cake flour, and Donut mix (4 seizure actions). (F. D. C. No. 37642. S. Nos. 13-441/8 M.)

QUANTITY: 15 25-lb. bags of dried pea beans; 29 100-lb. bags of dried Great Northern beans; 4 100-lb. bags of dried lima beans; 129 25-lb. bags of salt; 56 100-lb. bags of plain flour; 24 100-lbs. bags of cake flour; and 7 100-lb. bags of Donut mix, at Williamsport, Pa., in possession of Williamsport Wholesale Grocery Co., Inc.

SHIPPED: Between 8-17-54 and 11-23-54, from Oxnard, Calif., Kansas City, Mo., Buffalo and Watkins Glen, N. Y.

LIBELED: 2-3-55, M. Dist. Pa.

CHARGE: 402 (a) (3)—all lots contained rodent urine while held for sale, and the cake flour contained rodent excreta, also; and 402 (a) (4)—all lots held under insanitary conditions.

DISPOSITION: 4-28-55. Claimed by Williamsport Wholesale Grocery Co., Inc., and denatured for use as animal feed.

23973. Roasted peppers. (F. D. C. No. 39867. S. No. 62-752 M.)

QUANTITY: 77 cases, 21 jars each, at Clifton, N. J.

SHIPPED: 11-6-56, from Watertown, Mass., by Naples Food Products.

LABEL IN PART: "Net Weight 15 Oz. Baldanza's Best Selected Roasted Peppers Red and Green."

LIBELED: 2-11-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 3-26-57. Default—destruction.

23974. Whole red peppers. (F. D. C. No. 40078. S. No. 38-206 M.)

QUANTITY: 152 bags, at St. Louis, Mo., in possession of Warehousing Corporation of Missouri, Inc.

SHIPPED: 11-8-56, from Florence, S. C.

LIBELED: 4-3-57, E. Dist. Mo.

CHARGE: 402 (a) (4)—held under insanitary conditions in rodent-stained bags.

DISPOSITION: 4-12-57. Consent—claimed by Warehousing Corporation of Missouri, Inc. The urine stained areas of the bags were cut away and the peppers immediately under the urine stains were removed and discarded. The discarded peppers weighing 6 lbs. were destroyed.

23975. Eggplant appetizer. (F. D. C. No. 39945. S. Nos. 59-025/6 M.)

QUANTITY: 13½ cases, each full case containing 48 cans at Hazleton, Pa.

SHIPPED: 4-3-56 and 11-30-56, from Vineland, N. J., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Progresso Brand Egg Plant Appetizer Net Contents 4¾ ozs. Avoir. * * * Fancy Caponata."

LIBELED: 2-12-57, M. Dist. Pa.

CHARGE: 402 (a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 3-20-57. Default—destruction.

23976. Eggplant appetizer. (F. D. C. No. 40104. S. Nos. 61-036/7 M.)

QUANTITY: 121 cases, 48 4¾-oz. cans each, at Boston, Mass.

SHIPPED: Between 10-19-56 and 2-27-57, from Vineland, N. J., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Progresso Brand Egg Plant Appetizer * * * Fancy Caponata."

LIBELED: 3-21-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-17-57. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

23977. Canned tomatoes, ripe olives in brine, apple juice, canned beets, and canned herring. (F. D. C. No. 39454. S. Nos. 32-103 M, 32-105/8 M.)

QUANTITY: 36 cases, 48 10-oz. cans each, of canned tomatoes, 22 cases, 48 1-lb.

1 ½-oz. cans each, of ripe olives in brine, 27 cases, 12 1-qt. btls. each, of apple juice, 21 cases, 24 1-lb. jars each, of canned beets, and 35 cases, 48 15-oz. cans each, of canned herring at Philadelphia, Pa.

SHIPPED: During 1954 and 1955, and on 1-27-56, from Baltimore and Tilghman, Md., New York, N. Y., and Masonville, N. J.

LIBELED: 9-10-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 11-15-56. Default—destruction.

23978. Peeled Italian tomatoes. (F. D. C. No. 40127. S. No. 61-123 M.)

QUANTITY: 64 cases, 24 2-lb. 3-oz. cans each, at New Bedford, Mass.

SHIPPED: 1-19-57, from Naples, Italy.

LIBELED: 4-5-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed tomatoes while held for sale.

DISPOSITION: 5-13-57. Default—destruction.

23979. Tomato catsup. (F. D. C. No. 38501. S. No. 27-935 M.)

QUANTITY: 936 cases, 24 btls. each, at Atlanta, Ga.

SHIPPED: 9-3-55, from Elwood, Ind., by Frazier-Schafer Farms, Inc.

LABEL IN PART: (Btl.) "Frazier's Superfine Contents 14 Oz. Avd. Tomato Catsup."

LIBELED: 10-12-55, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained decomposed tomato material when shipped.

DISPOSITION: Frazier-Schafer Farms, a partnership, Elwood, Ind., having appeared as claimant, filed an answer on 11-23-55 denying that the article was adulterated. Thereafter, the Government served written interrogatories upon the claimant and in response thereto, the claimant filed its answers to all interrogatories except for those numbered 4 (d), 5, 12 and 15 to which objections were made. A hearing on the objections was held, and on 4-12-56 the court handed down the following ruling thereon:

"Interrogatories were filed February 6, 1956 and objections thereto are attached to the answers which were filed March 19, 1956.

"*Interrogatory 4 (d)* directs the defendant to 'furnish copies of reports of inspection.' *Interrogatory #5* directs respondent to attach to its answers 'the results of analyses,' and a statement as to when each sample was collected. *Interrogatory #12* in part directs respondent to attach to its answer 'the results of all analyses reported by you,' etc.

"It will be observed that each of the foregoing interrogatories contemplate that the respondent shall attach certain documents to answers. Plaintiff should have employed Rule 34 which contemplates the production of documents in connection with which it is necessary that good cause shall be shown. There are a few cases which uphold the procedure followed by the Government in this case, but the great weight of authority is to the contrary. See *Castro vs. A. H. Bull & Co.* (S. D. N. Y.) 9 F. R. D. 84; *Jones vs. Penn. R. R. Co.* (N. D. Ill.), 7 F. R. D. 662; *Roth, et al vs. Paramount Film Distributing Corp. et al* (W. D. Penn.) 4 F. R. D. 302. It is ruled therefore, that insofar as the foregoing Interrogatories seek the production of documents the objections are sustained, but respondent should answer as to *Interrogatory #5*, 'the results of analyses of all samples taken,' and as to *Interrogatory #12* should state 'the results of all analyses.'

"*Interrogatory #15* desires the names 'of all persons that claimant intends to call as witnesses.' The Interrogatory, as written, if it desires the names of parties having knowledge of the facts, is proper, but if it is designed to commit the respondent to the calling of certain persons as witnesses so as

to cause embarrassment to the respondent should the respondent change its mind, it is improper. This question has been frequently discussed by the courts, and efforts have been made to amend the Rules of Civil Procedure so as to require a party to give the names of their witnesses, but these efforts have failed. One reason the rules were not amended is the fact that many district judges have adopted the practice of requiring the parties at a pre-trial to give the names of their witnesses, and this practice has been taken to be adequate.

"There are several objections which might be urged to require a party to give the names of parties intended to be called as witnesses. Should some of these parties not be called, opposing counsel could argue that fact that if the witness, if produced would have been adverse. In that regard *Georgia Code Section 38-119* reads as follows :

where a party has evidence in his power and within his reach, by which he may repel a claim or charge against him, and omits to produce it, having more certain and satisfactory evidence in his power, relies on that which is of a weaker and inferior nature, a presumption arises that the the charge or claim is well founded ; but this presumption may be rebutted.

"Federal Courts have laid down a similar rule but one not as far reaching as the Georgia statute, a collection of these cases being found in *Federal Digest, Volume 30*, under the subject of Evidence, Key #76. Most of these cases are to the effect that where a party has it in his power to call certain witnesses but does not call them, there is a presumption that their testimony, if called, would not be favorable to his case. Whether a party has it within his power to produce a certain witness it is often vague and uncertain, but it would seem that when one party has the name of a person who has knowledge of the case, and gives the name and address of that possible witness to the other party to the case, each party has equal opportunity to subpoena the witness and therefore, it cannot be said that the party having first knowledge of the witness has the witness under his power any more than the other party.

"The Court, therefore, is interpreting *Interrogatory #15* as asking for the names and addresses of all persons who within the knowledge of the respondent have knowledge of the facts involved in the litigation. Whereupon, such parties may be interviewed by the Government if it sees fit to do so."

On 8-8-56, the claimant filed a petition for an order to permit the claimant, under the supervision of the Food and Drug Administration, to segregate the bottles of the article seized into separate groups of 100 cases each, and further to permit the claimant and the Food and Drug Administration to take post-seizure samples of each such group. In addition, the claimant filed a petition on 9-7-56 for removal of the libel action to the United States District Court for the Northern District of Indiana, Lafayette Division. On 9-12-56, the court entered an order denying the petition for segregation since the petition was not supported by a brief as required by the local rule of court. On 10-19-56, pursuant to the claimant's petition for removal, the court ordered the libel action removed to the United States District Court for the Northern District of Indiana, Lafayette Division. Thereafter, the Government filed with the United States District Court for the Northern District of Indiana, Hammond Division, a motion to remand the case to the court of original jurisdiction. On 12-4-56 the United States District Court for the Northern District of Indiana, Hammond, Indiana, granted the motion to remand on the ground that the above mentioned removal order of 10-19-56 was void, since there was no such court as the United States District Court for the Northern District of Indiana, Lafayette Division, to which the order had directed the libel action to be removed. Following the remanding of the case to the United States District Court for the Northern District of Georgia, the claimant withdrew its claim and answer, and on 3-29-57 an order was entered for the condemnation and destruction of the article.

23980. Canned tomato sauce. (F. D. C. No. 40102. S. No. 59-037 M.)

QUANTITY: 40 cases, 72 unlabeled cans each, at Philadelphia, Pa.

SHIPPED: 1-16-57, from Swedesboro, N. J., by California Packing Corp.

LIBELED: 3-20-57, E. Dist. Pa.

CHARGE: 402 (b) (2)—water had been substituted in part for tomato sauce when shipped; 402 (b) (4)—water had been added to the article and mixed and packed with it so as to increase its bulk or weight and reduce its quality; 403 (e) (1)—the article failed to bear a label containing the name and place of business of the manufacturer, packer or distributor; 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents; 403 (i) (1)—the label of the article failed to bear the common or usual name of the article; and 403 (i) (2)—the label of the article failed to bear the common or usual name of each ingredient of the article.

DISPOSITION: 6-6-57. Default—destruction.

NUTS*

23981. Shelled peanuts. (F. D. C. No. 40128. S. No. 66-907 M.)

QUANTITY: 52 100-lb. bags, at Suffolk, Va.

SHIPPED: 3-20-57, from Williamston, N. C., by Williamston Peanut Co.

LABEL IN PART: (Bag) "Virginia Shelled Pickout Peanuts * * * W-2."

LIBELED: 4-10-57, E. Dist. Va.

CHARGE: 402 (a) (3)—contained moldy peanuts when shipped.

DISPOSITION: 5-14-57. Default—delivered to a public institution, for use as animal feed.

23982. Unshelled pecans. (F. D. C. No. 40204. S. Nos. 59-456/7 M.)

QUANTITY: 116 50-lb. bags at Philadelphia, Pa.

SHIPPED: 12-3-56 and 12-6-56, from Albany, Ga., by Consolidated Pecan Sales Co., Inc.

LABEL IN PART: "King Cole Papershell Pecans * * * Artificially Colored."

LIBELED: 5-13-57, E. Dist. Pa.

CHARGE: 402 (c)—when shipped, the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations.

DISPOSITION: 7-31-57. Consent—claimed by Consolidated Pecan Sales Co., and cleaned so as to remove the uncertified coal-tar color.

23983. Shelled pecans. (F. D. C. No. 39957. S. Nos. 53-316 M, 53-318/9 M.)

QUANTITY: 20 30-lb. ctns. at Gulfport, Miss.

SHIPPED: 2-4-57, from New Orleans, La., by Williams Pecan Products Co.

LABEL IN PART: "Wilco Shelled Pecans."

LIBELED: 2-26-57, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained *E. coli*; and 402 (a) (4)—packed under insanitary conditions.

DISPOSITION: 3-23-56. Default—destruction.

23984. Sunflower seed. (F. D. C. No. 39698. S. No. 37-310 M.)

QUANTITY: 9 100-lb. bags at New York, N. Y.

*See also Nos. 23913, 23918, 23959.

SHIPPED: 10-31-56, from Hungary.

LIBELED: 11-30-56, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 1-2-57. Consent—claimed by Levy & Levis Co., Inc., New York, N. Y. Segregated; 30 lbs. destroyed.

OILS AND FATS

23985. Table and cooking oil. (F. D. C. No. 39577. S. No. 56-077M.)

QUANTITY: 19 cases, 6 1-gal. tins each, at Milwaukee, Wis.

SHIPPED: 6-19-56, from Chicago, Ill., by V. Formusa Co.

LABEL IN PART: (Tin) "Marconi Brand * * * Contains Refined Cottonseed Oil Pure Olive Oil Peanut Oil * * * Marconi Oil 100% Inspection Guaranteed."

RESULTS OF INVESTIGATION: Examination showed the article was a mixture of cottonseed oil and peanut oil, with little or no olive oil.

LIBELED: 9-20-56, E. Dist. Wis.

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in part omitted from the article when shipped; 402 (b) (2)—cottonseed oil and peanut oil, with little or no olive oil, had been substituted in part for a blend of cottonseed oil, peanut oil and olive oil; and 403 (a)—the label statement "Contains Refined Cottonseed Oil Pure Olive Oil Peanut Oil" was false and misleading.

DISPOSITION: 11-21-56. Consent—claimed by V. Formusa Co. Repacked and relabeled for use in the manufacturing or packing of products other than blended oil.

23986. Table and cooking oil (2 seizure actions). (F. D. C. Nos. 39765, 39766. S. Nos. 25-965 M, 25-974 M.)

QUANTITY: 15 cases, 6 1-gal. cans each, and 20 1-gal. cans at Des Moines, Iowa.

SHIPPED: 2-20-56 and 9-28-56, from Chicago, Ill., by Western Food Corp.

LABEL IN PART: (Can) "Liguria Superfine * * * Refined Vegetable Salad Oils and Pure Imported Olive Oil."

LIBELED: 11-16-56, S. Dist. Iowa.

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in whole or in part omitted from the article when shipped; and 403 (a)—the label statement "Vegetable Salad Oils and Pure Imported Olive Oil" was false and misleading as applied to the article, which contained vegetable oil with little or no olive oil.

DISPOSITION: 1-7-57. Default—delivered to a charitable institution for its use, and not for sale.

POULTRY

23987. Dressed eviscerated poultry. (Inj. No. 295.)

COMPLAINT FOR INJUNCTION FILED: 11-18-55, N. Dist. Ga., against Tugalo Poultry Co., Inc., Toccoa, Ga., Theodore A. Crenshaw, president and Ray Sims, plant superintendent.

CHARGE: The complaint alleged that the defendants were engaged in preparing and distributing dressed eviscerated poultry, and that they had been, and were causing to be, introduced and delivered for introduction into interstate commerce such poultry which was adulterated under 402 (a) (3) by reason of the presence of fecal and crop material and under 402 (a) (4) by reason of the preparation, packing and holding of the poultry under insanitary conditions.

The complaint alleged further that the insanitary conditions resulted from, and consisted of, the method of making the abdominal cut which severs several loops of the intestines causing fecal material to be spread over the inside of the body cavity; the commingling of birds and giblets with cut and broken intestines while passing over the drawing conveyor; the failure to wash fecal material off the drawing conveyor belt; the presence of hundreds of flies throughout the entire plant alighting on the equipment, on poultry in all phases of its preparation, and on the finished product; the presence of dead flies in the chill vats of the finished birds; the absence of screening on a number of windows permitting flies to have free access to any part of the plant; ill-fitting doors on unscreened restrooms which permitted flies to enter toilets and return to other parts of the plant; the use of filthy water in the drag washer; the stacking of boxes of finished birds directly onto the wet floor in the packing area and in the cold storage room; and, general carelessness on the part of the defendants and their employees.

The complaint alleged also that the defendants were well aware that their activities were violative of the law, that inspections had been made of the defendants' plant on 6-17-55, 8-9-55, and 9-30-55, at which time the defendants were informed of the insanitary conditions in their plant, that a notice of hearing pursuant to Section 305 was issued to the defendants on 8-25-55, and that despite such warnings, the defendants failed to correct the insanitary conditions in the plant and continued to introduce adulterated poultry into interstate commerce, as indicated above.

DISPOSITION: On 12-12-55, with the consent of the defendants, the court entered a temporary injunction enjoining the defendants against causing to be introduced and delivered for introduction into interstate commerce, dressed, drawn or cut-up poultry or any other such article.

(a) which was contaminated with fecal matter, crop material or like filthy substance,

(b) which had been prepared, packed or held in a plant in which fecal matter, crop material, miscellaneous dirt or debris were present on the floors and walls, or which was allowed to accumulate on the floors, or in and around the equipment used in the production of such food,

(c) which was produced in a plant infested with flies or other insects,

(d) which was prepared by the cutting of the abdominal cavity of birds in such manner that material from the intestines and crop became smeared on the food, or was prepared in an improper manner allowing the retention of the windpipe, lungs, gizzard material, reproductive organs or offal which might contaminate the food,

(e) which was produced in a plant without adequate screens, or with broken window panes,

(f) which was produced in a plant which failed to provide adequate toilet facilities for employees, and supervision to insure the use of such facilities by such employees,

(g) which was produced in a plant permitting waste paper, intestines, and offal to collect in, under, or around said plant,

(h) which was produced in a plant which failed to provide for sanitary handling of livers, hearts, giblets and gizzards,

(i) which was produced in a plant permitting the use of filthy water in washing the birds in various phases of their preparation, and

(j) which was produced in a plant which permitted the use of improper equipment, unfit ice, careless handling of the food, or which allowed diseased employees with cuts on fingers, or other injuries, to work around the premises.

Following the entry of the temporary injunction, an inspection of the defendants' plant by the Food and Drug Administration disclosed that it was operating in compliance with the law and as a result thereof, an order for the dismissal of the action was entered on 6-25-56.

23988. Chicken food products. (F. D. C. No. 35114. S. Nos. 19-672 L, 19-674 L, 34-585/6 L, 54-375 L, 54-377 L.)

INFORMATION FILED: 7-10-53, against Badger Fruit & Extract Co., a corporation, Kenosha, Wis., and Lee R. Schwartz, president.

SHIPPED: Between 6-7-52 and 12-3-52, from Wisconsin to Minnesota, Illinois, and Indiana.

LABEL IN PART: (Can) "Cloverblossom Net Weight 3 Lbs. 4 Oz. Chicken Fricassee Without Giblets" "Net Weight 1 Lb. Cloverblossom Spaghetti & Chicken," "Net Weight 3 Lbs. 4 Ozs. Cloverblossom Chicken Fricassee In Butter Gravy," "Net Weight 3 Lbs. 4 Ozs. Cloverblossom Spaghetti & Chicken Livers," "Net Weight 3 Lbs. 4 Ozs. Cloverblossom Condensed - Clear Chicken Broth", and "Net Weight 1 Lb. Cloverblossom Rendered Chicken Fat."

CHARGE: 403 (e) (2)—when shipped, the articles failed to bear labels containing accurate statements of the quantity of contents, since the articles contained less than their declared weights.

DISPOSITION: On 9-25-53, the defendants filed a motion for dismissal of the information; and on 12-11-53, the court after considering the briefs and arguments of counsel handed down the following opinion:

TEHAN, District Judge: "Defendants have been charged in six counts of an information with violation of 21 U. S. C. A. Sections 331 and 333. Count I in substance charges defendants with having introduced into interstate commerce on or about December 3, 1952, a number of cases containing a number of cans containing 'Chicken Fricassee Without Giblets' which cans were misbranded within the meaning of 21 U. S. C. A. Section 343 (e) (2), in that the labels on the cans bore the statement 'Net Weight 3 lbs. 4 Oz.', which statement was inaccurate since said cans contained less than 3 pounds 4 ounces net weight of said food. The other five counts are similar and vary only as to the dates of the alleged violations, the types of food, and the quantity or weight indicated on the labels. Each count charges that a number of cases containing a number of cans containing a particular food, were introduced into interstate commerce on or about a certain date, and that the label on the cans was inaccurate in that the cans contained less than the weight indicated on the labels.

"Defendants have now moved to dismiss the action on the ground that 21 U. S. C. A. Section 343 (e) (2) is vague and indefinite and does not meet the requirements of the Sixth Amendment that a defendant be informed of the nature and cause of the accusation made against him. The provision complained of reads as follows:

Sec. 343. Misbranded food

A food shall be deemed to be misbranded—

* * * * *

(e) If in package form unless it bears a label containing * * * (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Administrator.

This provision of the Federal Food, Drug and Cosmetic Act of 1938 is almost the exact counterpart of Section 8 of the Food and Drugs Act of 1906 (21 U. S. C. 10). That provision read in pertinent part as follows:

Third. If in package form, the quantity of the contents be not plainly and conspicuously marked on the outside of the package in terms of weight, measure, or numerical count. Reasonable variations shall be permitted, and tolerances and also exemptions as to small packages shall be established by rules and regulations made in accordance with the provisions of section 3 of this title.

"The identical motion made by the defendants in this case in regard to 21 U. S. C. 343 (e) (2) was made in *United States v. Shreveport Grain & Elevator Co.*, 287 U. S. 77 (1932), with respect to 21 U. S. C. 10. In that case the defendants contended that the proviso 'reasonable variations shall be permitted' made it necessary to read the entire section as substantively prohibiting unreasonable variations in the weight, measure or numerical count of the quantity and contents of any package from that marked on the outside of the package, and that the statute when read in that manner was invalid as being too indefinite and uncertain. In upholding the constitutionality of 21 U. S. C. A. Section 10 as against the contention that it did not sufficiently define an offense, the Supreme Court said: (Page 82)

We are of opinion that the construction thus sought to be put upon the act cannot be sustained; and, therefore, other considerations aside, the cases cited do not apply. The substantive requirement is that the quantity of the contents shall be plainly and conspicuously marked in terms of weight, etc. We construe the proviso simply as giving administrative authority to the Secretaries of the Treasury, Agriculture, Commerce and Labor to make rules and regulations permitting reasonable variations from the hard and fast rule of the act and establishing tolerances and exemptions as to small packages, in accordance with Section 3 thereof.

The court found that the substantive requirement of the statute that the quantity of the contents be plainly and conspicuously marked in terms of weight, etc. was sufficiently plain and definite.

"Although defendants' motion refers to the statute, it is evident to the court that the defendants here are not attacking the validity of the statute itself. Their position is rather that in view of the *Shreveport* decision it is imperative for the Administrator to create a standard by making rules and regulations permitting reasonable variations, and that the rules and regulations found at 21 C. F. R. 1.8 (e) et seq. do not disclose a standard permitting reasonable variations. The court cannot agree with this contention. The exemptions established at 21 C. F. R. 1.8, et seq. are similar and in some respects identical with those which were established under Section 8 of the Food and Drugs Act of 1906, published at 21 C. F. R. 1.58, et seq. (1939 Ed.) and which were in effect at the time the *Shreveport* case was decided. The court in that case, made mention of the regulations, and adverted to the strong presumption of their validity because of the acquiescence of Congress over the period of eighteen years during which they had been in effect. Over twenty more years have elapsed since the *Shreveport* decision, and substantially the same regulations are still in effect. Among the rules and regulations found at 21 C. F. R. 1.8 the following are most pertinent to the instant case:

(i) The statement shall express the minimum quantity, or the average quantity, of the contents of the packages. If the statement is not so qualified as to show definitely that the quantity expressed is the minimum quantity, the statement shall be considered to express the average quantity.

(j) Where the statement expresses the minimum quantity, no variation below the stated minimum shall be permitted except variations below the stated weight or measure caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in decreased weight or measure. Variations above the stated minimum shall not be unreasonably large.

(k) Where the statement does not express the minimum quantity:

(1) Variations from the stated weight or measure shall be permitted when caused by ordinary and customary exposure, after the food is introduced into interstate commerce, to conditions which normally occur in good distribution practice and which unavoidably result in change of weight or measure;

(2) Variations from the stated weight, measure, or numerical count shall be permitted when caused by unavoidable deviations in weighing, measuring, or counting individual packages which occur in good packing practice.

But under subparagraph (2) of this paragraph variations shall not be permitted to such extent that the average of the quantities in the packages comprising a shipment or other delivery of the food is below the quantity stated, and no unreasonable shortage in any package shall be permitted, even though overages in other packages in the same shipment or delivery compensate for such shortage.

(1) The extent of variations from the stated quantity of the contents permissible under paragraphs (j) and (k) of this section in the case of each shipment or other delivery shall be determined by the facts in such case.

“The court said in the *Shreveport* case, (Page 86), that the effect of the proviso directing administrative officers to prescribe administrative rules and regulations was

. . . evident and legitimate, namely, to prevent the embarrassment and hardship which might result from a too literal and minute enforcement of the act, without at the same time offending against its purposes. The proviso does not delegate legislative power but confers administrative functions entirely valid within principles established by numerous decisions of this court, . . .

“The court believes that the regulations in question establish adequate standards permitting reasonable variations in fulfillment of the purposes and provisions of the act.

“Defendants have also made reference to 21 U. S. C. A. Section 336 which authorizes the Administrator to refrain from reporting violations of the Act when in his discretion the public interest will be adequately served by a suitable written notice or warning. This provision does not detract from the definiteness of the statutory definition of misbranding. Instead the Supreme Court in *United States v. Sullivan*, 332 U. S. 689 (1948), has found that this provision adds to the fairness of the Act by allowing the Administrator to refrain from reporting for prosecution minor technical violations. The court said in the *Sullivan* case, (Page 694) :

The scope of the offense which Congress defined is not to be judicially narrowed as applied to drugs by envisioning extreme possible applications of its different misbranding provisions which relate to food, cosmetics, and the like. There will be opportunity enough to consider such contingencies, should they ever arise. It may now be noted, however, that the Administrator of the Act is given rather broad discretion—broad enough undoubtedly to enable him to perform his duties fairly without wasting his efforts on what may be no more than technical infractions of law. As an illustration of the Administrator’s discretion, Section 306 permits him to excuse minor violations with a warning if he believes that the public interest will thereby be adequately served.

“Counsel for the Government will prepare an order in conformity with this opinion.”

In accordance with the above opinion, an order was entered on 12-14-53 denying the defendants' motion for dismissal. On 2-8-54, the defendants were arraigned and entered pleas of not guilty. The case came on to trial before the court without a jury on 4-9-56, and at the conclusion of the trial on 4-10-56 the court rendered a verdict of guilty. On 6-25-56, the court imposed a fine of \$1,000 against the corporation and a jail sentence of 180 days against the individual defendant.

23989. Frozen poultry. (F. D. C. No. 40062. S. Nos. 44-146 M, 44-148 M.)

QUANTITY: 153 boxes, 3,455 lbs. total, at Memphis, Tenn.

SHIPPED: 6-22-56, from Hattiesburg, Miss., by C & S Poultry Co.

LIBELED: 3-21-57, W. Dist. Tenn.

CHARGE: 402 (a) (3)—when shipped, 99 boxes contained crop material and uncleaned gizzards, and 54 boxes, contained fecal material and decomposed birds.

DISPOSITION: 5-15-57. Default—delivered to a public institution for conversion into fertilizer.

SPICES, FLAVORS, AND SEASONING MATERIALS*

23990. Capsicum. (F. D. C. No. 39802. S. No. 27-608 M.)

QUANTITY: 87 85-lb. bags at New Orleans, La.

SHIPPED: 10-23-56, from New York, N. Y., by John Holt & Co.

LABEL IN PART: (Bag) "20 C Holts 12.1.55 Nigeria 53."

LIBELED: 12-4-56, E. Dist. La.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 1-8-57. Default—destruction.

23991. Mustard seed. (F. D. C. No. 39943. S. No. 53-326 M.)

QUANTITY: 62 100-lb. bags at New Orleans, La.

SHIPPED: 7-26-56, from Brooklyn, N. Y.

LIBELED: 2-7-57, E. Dist. La.

CHARGE: 402 (a) (3)—contained rodent pellets while held for sale.

DISPOSITION: 3-29-57. Default—destruction.

23992. Nutmegs. (F. D. C. No. 39856. S. No. 45-766 M.)

QUANTITY: 26 180-lb. bags of cracked nutmegs and 252 lbs. of ground nutmeg at Baltimore, Md.

SHIPPED: 10-11-56, from New York, N. Y.

LIBELED: On or about 2-1-57, Dist. Md.

CHARGE: 402 (a) (3)—contained insects and insect fragments while held for sale.

DISPOSITION: 2-28-57. Consent—claimed by Baltimore Spice Co., Baltimore, Md. Segregated; 887 lbs. destroyed.

23993. Paprika. (F. D. C. No. 40266. S. No. 14-561 M.)

QUANTITY: 29 110-lb. bags at St. Louis, Mo.

SHIPPED: 12-14-56, from Brooklyn, N. Y., by Morris J. Golombeck, Inc.

*See also No. 23972.

LABEL IN PART: "Chilean Paprika Standard."

LIBELED: 5-29-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained insect fragments and rodent excreta when shipped.

DISPOSITION: 6-26-57. Default—destruction.

23994. Poppyseed and caraway seed. (F. D. C. No. 39761. S. Nos. 56-392/3 M.)

QUANTITY: 2 bags, 105 lbs. each, of poppy seed, and 6 bags, 100 lbs. each, of caraway seed, at Duluth, Minn.

SHIPPED: 9-21-56, from Chicago, Ill.

LIBELED: 11-10-56, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine while held for sale.

DISPOSITION: 12-27-56. Default—denatured for animal feed.

23995. Salad mix. (F. D. C. No. 39762. S. No. 27-082 M.)

QUANTITY: 29 cases, 12 1-pt. jars each, at Jackson, Miss.

SHIPPED: 8-17-56, from Crowley, La., by Tiffe's Fine Food Products.

LABEL IN PART: (Jar) "Tiffe's Wop Salad Mix."

RESULTS OF INVESTIGATION: Examination showed the article was undergoing decomposition.

LIBELED: 11-9-56, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 12-13-56. Default—destruction.

23996. Salad mix. (F. D. C. No. 39760. S. No. 43-295 M.)

QUANTITY: 6 cases, 12 jars each, at Memphis, Tenn.

SHIPPED: 8-19-56, from Crowley, La., by C. Derousselle.

LABEL IN PART: (Jar) "Tiffe's Wop Salad Mix * * * Contents Half Pint."

RESULTS OF INVESTIGATION: Examination showed the article was undergoing decomposition.

LIBELED: 11-9-56, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 12-11-56. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

23997. Bernalac and cream of celery soup base. (F. D. C. No. 38601. S. Nos. 27-735 L, 7-376 M, 7-379 M, 16-063 M.)

INFORMATION FILED: 6-7-56, N. Dist. Calif., against Bernard Food Industries, Inc., San Jose, Calif., and Frank S. Bernard, President.

SHIPPED: Between 9-4-53 and 3-29-55, from California to Washington, Nevada, and Colorado.

LABEL IN PART: (Can) "Bernard Bernalac Net Weight 16 oz. Fortified with Vitamins" or "Bernard Barnalac Net Weight 4 lbs." and (Jar) "Bernard Salt Free—Low Sodium Cream of Celery Soup Base Net Wt. 12 ozs. Sodium Content—1.25 mg. of sodium per 100 gm of dry base by Spectrophotometric

*See also Nos. 23901, 23911.

determination. An 8 oz. serving of the finished product contains less than 1 mg of all sodiums."

CHARGE: Bernalac. 402 (b) (1)—valuable constituents, vitamins A, B₁, B₂, B₁₂ and niacinamide, had been in part omitted from the article in the Washington and Nevada shipments; 402 (b) (2)—nonfat dry milk solids were substituted in whole or in part for "Bernalac—a Low Sodium, High Value Protein, Food Supplement—Fortified with Vitamins and Minerals, Calcium, Potassium and Phosphorus" which the article in the Washington shipment purported to be; 403 (a)—the statement "including Sodium * * * 0.15%" on the label of the article in the Colorado shipment was false and misleading since the article contained substantially more than the stated quantity of sodium; and 403 (j)—the article in the Colorado shipment purported to be and was represented as a food for special dietary use by reason of its restricted sodium content, and its label failed to bear, as required by regulations, a statement of the number of milligrams of sodium per 100 grams of the article and a statement of the number of milligrams of sodium in an average serving of the article.

Cream of celery soup base. 403 (a)—the label declaration of sodium content was false and misleading as applied to the article which contained substantially more than the stated quantity of sodium; and 403 (j)—the article purported to be and was represented as a food for special dietary use by reason of its restricted sodium content, and its label failed to bear, as required by regulations, a statement of the number of milligrams of sodium per 100 grams of the article, and a statement of the number of milligrams of sodium in an average serving of the article.

PLEA: Nolo contendere by the corporation to all 4 counts of the information, and by the individual to 3 counts.

DISPOSITION: 9-18-56. Individual—\$3 fine; corporation—\$1,000 fine.

23998. Hadacol. (F. D. C. No. 39797. S. No. 30-863 M.)

QUANTITY: 51 24-oz. btls. and 34 8-oz. btls., at Louisville, Ky.

SHIPPED: On an unknown date, from Lafayette, La.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than the declared amounts of vitamins B-1 and B-2.

LIBELED: 12-3-56. W. Dist. Ky.

CHARGE: 402 (b) (1)—valuable constituents, vitamins B-1 and B-2, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "contains the vitamins B-1 * * * 6 milligrams * * * and B-2 * * * 4 milligrams" was false and misleading.

DISPOSITION: 3-5-57. Default—destruction.

23999. Canned dietetic tuna. (F. D. C. No. 40097. S. Nos. 54-035/6 M.)

QUANTITY: 47 cases, 48 cans each and 46 cases, 24 cans each, at Seattle, Wash.

SHIPPED: 11-23-56, from Astoria, Oreg., by Van Camp Seafood Co., Inc.

LABEL IN PART: (Can) "White Star * * * 6½ ounces * * * Bite Size * * * Dietetic Pack Tuna * * * A special purpose food low in fat, cholesterol and sodium."

LIBELED: 3-12-57, W. Dist. Wash.

CHARGE: 403 (j)—the article purported to be and was represented as a food for special dietary use by reason of its use as a means of regulating the intake of sodium, and, when shipped, its label failed to bear, as required by regula-

tions, a statement of the number of milligrams of sodium per 100 grams of the article and a statement of the number of milligrams of sodium in an average serving of the article.

DISPOSITION: 4-15-57. Consent—claimed by Van Camp Seafood Co., Inc., and relabeled.

24000. Vitamin tablets. (F. D. C. No. 39818. S. No. 26-957 M.)

QUANTITY: 10,000 tablets in one jar, and 12 50-tablet btls., at San Antonio, Tex.

SHIPPED: 12-10-56, from St. Louis, Mo.

RESULTS OF INVESTIGATION: Analysis showed that the tablets contained less than 50 percent of the declared amount of vitamin D and 33 percent less than the declared amount of vitamin B-1.

LIBELED: 12-13-56, W. Dist. Tex.

CHARGE: 402 (b) (1)—valuable constituents, vitamin D and vitamin B-1, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement, “Two Tablets * * * contains * * * Vitamin D * * * 2000 USP Units * * * Vitamin B1 * * * 6 MG” was false and misleading.

DISPOSITION: 3-11-57. Default—destruction.

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¹ (23979) Seizure contested. Contains ruling of the court.

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¹ (23979) Seizure contested. Contains ruling of the court.

² (23987) Injunction issued.

³ (23988) Prosecution issued. Contains opinion of the court.

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¹ (23979) Seizure contested. Contains ruling of the court.
² (23987) Injunction issued.
³ (23988) Prosecution contested. Contains opinion of the court.

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dressed eviscerated poultry-- ²	23987		

² (23987) Injunction issued.³ (23988) Prosecution contested. Contains opinion of the court.

	N. J. No.		N. J. No.
Williamsport Wholesale Grocery		Williamston Peanut Co.:	
Co., Inc.:		shelled peanuts-----	23981
dried pea beans, dried Great		Woo, W. S.:	
Northern beans, dried lima		rice and fried noodles-----	23920
beans, salt, plain flour, cake		Woodland Warehouses:	
flour, and Donut mix-----	23972	beans -----	23967

U. S. Department of Health, Education, and Welfare
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

24001-24050

FOODS

RECEIVED
SERIAL RECORD
OCT 24 1958
U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; (3) injunction proceedings terminated with the entry of an injunction; and (4) contempt proceedings for violation of an injunction which were terminated upon a plea of guilty. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal, injunction, and contempt proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *September 25, 1958.*

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 24001-24050
FOOD AND DRUG ADMINISTRATION

Adulteration, Section 402 (a) (1), the article contained an added poisonous or deleterious substance which may have rendered it injurious to health; Section 402 (a) (2), the article contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402 (e), the article was oleomargarine and was unfit for food; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice. Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (e) (2), the article was in package form and it failed to bear a label containing an accurate statement of the quantity of contents; Section 403 (h) (1), the article purported to be and was represented as a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard; Section 403 (i) (2), the article was not subject to the provisions of Section 403 (g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403 (k), the article contained a preservative and it failed to bear labeling stating that fact.

Published by direction of the Secretary of Health, Education, and Welfare.

CEREALS AND CEREAL PRODUCTS

GEO. P. LARRICK, Commissioner of Food and Drugs.

WASHINGTON, D. C., September 25, 1957

24001. Flour. (F. D. C. No. 40348. S. No. 75-934 M.)

QUANTITY: 8 300-lb. drums at Thomaston, Maine.

SHIPPED: 5-8-57, from Lemoyne, Pa.

LIBELED: 7-8-57, Dist. Maine.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-2-57. Default—destruction.

24002. Flour. (F. D. C. No. 40328. S. Nos. 39-745/6 M.)

QUANTITY: 430 25-lb. bags and 20 50-lb. bags at Cornelia, Ga.

SHIPPED: 4-22-57 and 5-17-57, from Central, S. C., by Central Roller Mills.

LABEL IN PART: "Flour *MISSAQUEBENA."

LIBELED: 6-14-57, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-5-57. Default—destruction.

*See also No. 24004.

Index

24003. Flour, Donut mix, cornmeal, rice, oats, and brown sugar. (F. D. C. No.

40343. S. Nos. 55-198/200 M, 55-786 M, 65-561/2 M, 65-564/6 M, 65-569/71 M.)

QUANTITY: 192 25-lb. bags, 15 98-lb. bales, 12 100-lb. bags, and 20 25-lb. bales of flour, 11 100-lb. bags and 2 170-lb. bags of Donut mix, 43 100-lb. bags and 11 bags, totaling 650 lbs., of rice, 25 ctns., each containing 24 1½-lb. boxes of cornmeal, 77 ctns., each containing 24 1-lb. 2-oz. pkgs. of oats, 15 bags totaling 1,485 lbs. of cornmeal, and 9 bags totaling 600 lbs. of brown sugar at Covington, Ky., in possession of Central Sales Co.

SHIPPED: On various dates, from Cincinnati, Ohio.

LIBELED: 7-14-57, (E. Dist. Ky. Charge: 402 (a) (3)—contained insects; and

CHARGE: 402 (a) (3)—the flour contained insects and rodent pellets, the Donut mix, oats, and sugar contained insects, the rice contained dust, dirt, insect fragments, and bird excreta, and the cornmeal contained insect filth, insects, insect fragments, and rodent hairs; and 402 (a) (4)—all articles were held under insanitary conditions.

DISPOSITION: 8-2-57. Consent—claimed by Central Sales Co., and destroyed.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

24004. Hominy grits and flour. (F. D. C. No. 40160. S. Nos. 57-912 M, 57-914 M.)

QUANTITY: 6 100-lb. bags of hominy grits and 8 100-lb. bags of flour, at Sanford, Fla., in possession of Central Florida Foods, Inc.

SHIPPED: 3-12-57, from Birmingham, Ala.

LIBELED: On or about 4-18-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—the grits contained insects and the flour contained rodent pellets and rodent hairs; and 402 (a) (4)—both articles were held under insanitary conditions.

DISPOSITION: 6-12-57. Default—destruction.

24005. Unpopped popcorn. (F. D. C. No. 40134. S. No. 57-910 M.)

QUANTITY: 25 50-lb. bags at Orlando, Fla., in possession of Howard Grocery Co.

SHIPPED: 1-18-57, from Princeton, Ind.

LIBELED: 4-16-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained rodent pellets, rodent hairs, and rodent-gnawed kernels; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-21-57. Default—destruction.

24006. Wheat. (F. D. C. No. 40356. S. No. 79-699 M.)

QUANTITY: 117,900 lbs. at Minneapolis, Minn.

SHIPPED: 6-14-57, from Dallas, S. Dak., by Farmer's Co-op Association.

LIBELED: 7-1-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 8-5-57. Consent—claimed by Farmers Union Grain Terminal Association, St. Paul, Minn. Segregated; 8,790 lbs. denatured for use as animal feed.

*See also No. 24003.

SHIPPED: 11-30-56, from Oklahoma to Virginia.

CHOCOLATE, SUGAR, AND RELATED PRODUCTS**CHOCOLATE AND COCOA**

24007. Milk chocolate. (F. D. C. No. 40300. S. No. 75-103 M.)

QUANTITY: 80 ctns., each containing 50 lbs. of chocolate in 10-lb. slabs at Los Angeles, Calif.

SHIPPED: 3-14-57, from Buffalo, N. Y., by Merckens Chocolate Co., Inc.

LIBELED: 6-6-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 7-26-57. Default—destruction.

24008. Cocoa. (F. D. C. No. 40341. S. No. 80-872 M.)

QUANTITY: 360 166-lb. bags at Baltimore, Md., in possession of Baltimore & Ohio Railroad, Pier 3, Locust Point.

SHIPPED: 12-13-56, from Brazil.

LIBELED: 6-27-57, Dist. Md.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-22-57. Consent—claimed by Baltimore & Ohio Railroad. Segregated; 7,000 lbs. destroyed.

CONFECTIONERY

24009. Candy. (F. D. C. No. 40330. S. No. 34-472 M.)

QUANTITY: 21 cases, 12 pkgs. each, at Omaha, Nebr.

SHIPPED: 5-7-57, from Kansas City, Mo., by Hill Candy Co.

LABEL IN PART: (Pkg.) "Pecan Divinity 9 Oz. or over * * * Ingredients: Sugar, Corn Syrup, Egg Whites, Invert Sugar, Convertit, Nuts and Artificial Flavoring."

LIBELED: 6-18-57, Dist. Nebr.

CHARGE: 402 (a) (3)—contained rodent hair fragments and insect parts; 402 (a) (4)—prepared under insanitary conditions; 402 (b) (1)—a valuable constituent, pecans, had been in part omitted from the article; 402 (b) (2)—peanuts had been substituted in part for pecans; 403 (a)—the label statement "Pecan Divinity" was false and misleading as applied to a product in which 70 percent of the nut ingredient was peanuts; 403 (i) (2)—the label failed to bear the common or usual name of each ingredient since peanuts were not declared; and 403 (k)—the article contained artificial coloring, and it failed to bear labeling stating that fact.

DISPOSITION: 7-29-57. Default—destruction.

SIRUP AND SUGAR*

24010. Sorghum sirup. (F. D. C. No. 40149. S. Nos. 66-892/3 M.)

INFORMATION FILED: 7-30-57, E. Dist. Okla., against Clifton S. Watson, t/a C. S. Watson, Haileyville, Okla.

SHIPPED: 11-30-56, from Oklahoma to Virginia.

*See also No. 24003.

LABEL IN PART: (Can & Jar) "Watson's Indian Creek Brand Pure Sorghum Made From Cane."

CHARGE: 402 (b) (2)—a substance other than sorghum had been substituted in part for sorghum; and 403 (a)—the label statement "Pure Sorghum Made From Cane" was false and misleading.

PLEA: Nolo contendere.

DISPOSITION: 9-13-57. \$200 fine.

24011. Sugar. (F. D. C. No. 40522. S. No. 67-258 M.)

QUANTITY: 500 100-lb. bags at Baltimore, Md.

SHIPPED: Between April and June 12, 1957, from Ponce, Puerto Rico.

LIBELED: 7-17-57, Dist. Md.

CHARGE: 402 (a) (3)—contained rodent urine, rodent hairs, dirt, and insect parts while held for sale.

DISPOSITION: 8-9-57. Consent—claimed by Baltimore & Ohio Railroad Co. and re-refined.

DAIRY PRODUCTS

BUTTER

24012. Butter. (F. D. C. No. 40286. S. No. 33-386 M.)

QUANTITY: 26 3/16 cubes, each full cube containing 64 lbs. of butter at Falls City, Nebr.

SHIPPED: A quantity of decomposed cream was shipped on 6-13-57 to Falls City Creamery Co., Falls City, Nebr., from Smith Center, Kans., by Braden's Produce.

LABEL IN PART: "Ice Cream Butter."

RESULTS OF INVESTIGATION: Examination showed that the butter was made from decomposed cream.

LIBELED: 6-21-57, Dist. Nebr.

CHARGE: 402 (a) (3)—contained a decomposed substance.

DISPOSITION: 9-23-57. Consent—claimed by Falls City Creamery Co., and converted into butter oil.

CHEESE

24013. Cheese. (F. D. C. No. 40242. S. No. 14-596 M.)

QUANTITY: 19 25-lb. blocks at St. Louis, Mo., in possession of Italo-American Importing Co.

SHIPPED: 10-15-56, from Boston, Mass.

LIBELED: 5-6-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent-gnawed cheese; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-5-57. Default—destruction.

EGGS

24014. Frozen eggs. (F. D. C. No. 40306. S. Nos. 63-030/1 M.)

QUANTITY: 665 30-lb. cans at Brooklyn, N. Y.

SHIPPED: 5-1-57 and 5-8-57 from Chicago, Ill. by Danber Bros. : TRAIL IN PART : MADE FROM CANE.
 LIBELED: 6-6-57, E. Dist. N. Y.
 CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.
 DISPOSITION: 6-28-57. Consent—claimed by Nathan Erlich, Inc., New York, N. Y. Segregated; 57 cases found unfit and disposed of for use other than human consumption.

24015. Eggs. (F. D. C. No. 40323. S. No. 68-664 M.)
 QUANTITY: 350 cases, each containing 30 doz. eggs at Newark, N. J.
 SHIPPED: 6-7-57, from the State of Maine, by Harry Cohen.
 LIBELED: 6-11-57, Dist. N. J.
 CHARGE: 402 (a) (3)—contained decomposed eggs and was otherwise unfit for food when shipped.
 DISPOSITION: 7-23-57. Default—destruction.

FISH AND SHELLFISH

24016. Frozen haddock fillets. (F. D. C. No. 40336. S. Nos. 75-925/6 M.)
 QUANTITY: 81 10-lb. ctns. and 70 5-lb. ctns. at Boston, Mass.
 SHIPPED: The fillets were from fish caught by the fishing vessel "Racer" in the Atlantic Ocean outside the limits of the State of Massachusetts, and unloaded at Boston, Mass., on 6-7-57.
 LIBELED: 6-25-57, Dist. Mass.
 CHARGE: 402 (a) (3)—contained decomposed fish when shipped.
 DISPOSITION: 7-30-57. Default—delivered to a public institution for use as animal feed.

24017. Salt herring. (F. D. C. No. 40313. S. No. 72-609 M.)
 QUANTITY: 590 225-lb. barrels at Chicago, Ill.
 SHIPPED: Between 4-24-57 and 5-20-57, from White Stone, Va., by C. C. Frankner (Harry Hogan plant).
 LIBELED: 6-7-57, N. Dist. Ill.
 CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 6-26-57. Consent—claimed by Benson Fish Co., Chicago, Ill. Segregated; 28 barrels denatured for use as hog feed.

24018. Brisling sardines. (F. D. C. No. 40187. S. No. 72-634 M.)
 QUANTITY: 280 cases, 100 tins each, at Chicago, Ill.
 SHIPPED: Approximately 4 years prior to the filing of the libel, from Fredrikstad, Norway.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 4-30-57, N. Dist. Ill.
 CHARGE: 402 (a) (3)—contained decomposed substance while held for sale.
 DISPOSITION: 6-4-57. Default—destruction.

24019. Canned shrimp. (F. D. C. No. 40271. S. No. 81-748 M.)
 QUANTITY: 696 cases, 24 5-oz. cans each, at Biloxi, Miss.

SHIPPED: 5-20-57, from Franklin, La., by Daigleville Packing Co.

LIBELLED: 6-11-57, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

Disposition: 7-18-57. Consent—claimed by Daigleville Packing Co. Segregated; 494 cases destroyed.

24020. Oysters (Inj. No. 298.)

COMPLAINT FOR INJUNCTION FILED: 9-29-55, Dist. Md., against Seacoast Oyster Co., Inc., Baltimore, Md., to enjoin the interstate shipment of adulterated oysters.

CHARGE: The complaint alleged that the defendant at the time of filing the complaint was engaged in the business of processing, preparing, packing into hermetically sealed cans, and selling and distributing raw oysters; and that the defendant had been introducing and delivering for introduction into interstate commerce oysters which were adulterated within the meaning of 402 (b) (2) in that water had been substituted in part for oysters, and 402 (b) (4) in that water had been added, mixed, and packed with the oysters so as to increase their bulk and reduce their quality.

The complaint alleged also that the defendant did not engage in the shucking of oysters, but rather purchased shucked oysters in bulk from plants in the Pamlico Sound area of North Carolina and from the Chesapeake Bay area in Maryland; that after such oysters had been packed by the defendant into 12-ounce and one pint cans they were shipped in interstate commerce, that extensive authentic packs of oysters from these areas established that, when packed in conformity with existing regulations, not over 5 per cent of drained liquid would be found in the oysters within 15 minutes after packing; that specific shipping experiments of authentic packs of oysters from these areas established that there would be no increase in the drained liquid content of the

cans of oysters with the passage of time after packing; that samples collected from interstate shipments made by the defendant, upon analysis, disclosed the presence of amounts of liquid greatly in excess of 5 per cent; and, that such analytical findings established that the oysters were adulterated by (1) the excessive soaking of the oysters in fresh water before packing to the extent that the oysters absorbed a large quantity of water, or (2) the addition of

water to the oysters at the time of packing, or (3) the inadequate draining of the oysters after washing so that a significant proportion of the wash water was retained and packed with the oysters, or (4) combinations of the above-mentioned factors.

The complaint further alleged that, since the time the defendant commenced business in 1952, the Food and Drug Administration had examined 85 interstate shipments of the firm's oysters; that 38 of these shipments (45 percent) contained added water, and that, in nearly every case, the oysters were seized; that an additional 21 shipments contained lesser amounts of added water but were not seized; that only 26 shipments (30 per cent) complied with the requirements of the law; that during the 1952-1953 season, approximately 3,658 pints of oysters shipped by the defendant, worth approximately \$2,839.75,

were seized because of the presence of added water; that, during the 1953-1954 season, approximately 1,908 pints of oysters shipped by the defendant, worth approximately \$1,600.25, were seized because of the presence of added water; that, during the 1954-1955 season, approximately 2,273 pints of oysters shipped

months.

by the defendant, worth approximately \$1,815.28, were seized because of the presence of added water; and, that none of the seizures had been contested.

It was alleged also that the defendant corporation was well aware that its activities resulted in violations of the law; that, in addition to the warnings received as a result of the seizure proceedings, considerable effort had been expended by the Food and Drug Administration to advise the defendant corporation relative to legal methods of packing oysters; that, at the time of each factory inspection, in 1952, 1953, and 1954, inspectors of the Food and Drug Administration had discussed with responsible officers of the corporation the proper method of handling oysters; that the same subject was discussed with the president of the corporation when he responded to notices sent to the corporation in 1953 and 1955; and, that, notwithstanding such warnings, the defendant had failed to correct its method of operation and would continue to introduce and cause to be introduced, and deliver and cause to be delivered for introduction into interstate commerce raw oysters adulterated as aforesaid.

DISPOSITION: The Government filed a motion for preliminary injunction, and an answer to such motion was filed by the defendant. A hearing in the matter was held on 10-10-55. On 11-2-55, the court issued a preliminary injunction enjoining and restraining the defendant (until the complaint filed by the Government is dismissed upon its motion, or set aside by the court upon hearing the complaint for permanent injunction), from directly or indirectly introducing or causing to be introduced, or delivering or causing to be delivered for introduction into interstate commerce raw oysters or any other such articles of food which are packed in such a manner that over 5 percent of drained liquid is found in the oysters at any time after fifteen minutes after packing and are thus adulterated within the meaning of 402 (b) (2) and (4).

24021. Oysters. (Inj. No. 293.)

PETITION FILED: On 4-23-57, in the District of Maryland, the United States attorney filed a petition for an order to show cause why the Seacoast Oyster Co., Inc., Baltimore, Md., and John H. Leonard, president of the corporation, should not be punished for criminal contempt of the preliminary injunction which had been entered against the corporation on 11-2-55 (preceding notice of judgment on foods, No. 24020).

CHARGE: The petition alleged that, following the entry of the injunction, the defendants had shipped in interstate commerce, on or about 11-9-56, 11-13-56, 11-16-56, and 12-18-56, from Baltimore, Md., to Altoona, Pa., Clarksburg, W. Va., Evansville, Ind., and Morgantown, W. Va., quantities of raw oysters in cans which contained added water as evidenced by examinations showing an average drained liquid content in the oysters ranging between 10 percent and 37.5 percent; and that by reason of such shipments of oysters the defendants were in criminal contempt of the injunction which restrained the defendants from shipping raw oysters which are packed in such a manner that over 5% of drained liquid is found in the oysters at any time after 15 minutes after packing and are thus adulterated within the meaning of Sections 402 (b) (2) and 402 (b) (4).

DISPOSITION: On 4-23-57, the order to show cause was issued. On 5-3-57, the defendants pleaded guilty to violation of the injunction; and the court fined the defendant corporation \$750, and sentenced the defendant, Leonard, to jail for 90 days. On 6-17-57, the court modified the jail sentence to 2 months.

FRUITS AND VEGETABLES**DRIED FRUIT**

24022. Currants. (F. D. C. No. 40280. S. No. 43-462 M.)

QUANTITY: 60 11-oz. ctns. at West Plains, Mo., in possession of Reed-Harlin Co.

SHIPPED: September 1956, from Fresno, Calif.

LIBELED: On or about 6-19-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-9-57. Default—destruction.

24023. Raisins. (F. D. C. No. 40310. S. No. 68-523 M.)

QUANTITY: 233 cases, each containing 2 doz. 15-oz. ctns., at New York, N. Y.

SHIPPED: 3-5-57, from Del Rey, Calif., by Del Rey Packing Co.

LABEL IN PART: (Ctn.) "White Rose Golden Seedless Raisins."

LIBELED: 6-18-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 7-22-57. Default—destruction.

FRESH FRUIT

24024. Fresh cranberries. (F. D. C. No. 40033. S. No. 56-437 M.)

QUANTITY: 14 cases, 24 1-lb. packages each, at Minneapolis, Minn.

SHIPPED: 12-18-56, from Chicago, Ill., by Eatmor Cranberries, Inc.

LABEL IN PART: (Pkg.) "Eatmore * * * Fresh Cranberries."

LIBELED: 3-1-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained decomposed cranberries when shipped.

DISPOSITION: 5-17-57. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS

24025. Frozen concentrated grape juice. (F. D. C. No. 40248. S. No. 66-004 M.)

QUANTITY: 1,295 cases, 24 6-oz. cans each, at Sacramento, Calif.

SHIPPED: 1-21-57, from Grandview, Wash., by Tea Garden Products Co.

LABEL IN PART: (Cans) "Frozen Fresh Concord Grape Juice Concentrated * * * Approximately 75% of water removed. Serve plain or with other frozen juices. Add 3 cans full of cold water—Makes 24 Fl. Oz. Bel-air Grape Juice Sugar added."

LIBELED: 5-15-57, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained fly fragments; 402 (a) (4)—prepared under insanitary conditions; and 403 (a)—the label statements "Concentrated Grape Juice—Approximately 75% of water removed. Add 3 cans full of cold water—Makes 24 Fl. Oz.," and vignette of clusters of grapes on the label were misleading as applied to the article, which, when diluted according to directions would not result in grape juice but in an article that contained less than 50 percent grape juice.

DISPOSITION: 7-9-57. Default—destruction.

24026. Concentrated orange juice. (F. D. C. No. 40164. S. Nos. 67-006/7 M.)

QUANTITY: 49 1-gal. cans at Arlington, Va.

SHIPPED: 7-24-56 and 8-10-56, from Baltimore, Md., and New York, N. Y.

LIBELED: 4-15-57, E. Dist. Va.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-30-57. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

24027. Canned green beans. (F. D. C. No. 40294. S. No. 72-270 M.)

QUANTITY: 368 cases, 24 cans each, at Chicago, Ill.

SHIPPED: 4-2-57, from Baltimore, Md., by Lord-Mott Co., Inc.

LABEL IN PART: (Can) "Lord-Mott's French Style Green Stringless Beans
Contents 15½ oz."

LIBELED: 5-27-57, N. Dist. Ill.

CHARGE: 403 (h) (1)—the quality of the article, when shipped, fell below the standard of quality for canned cut green beans since the deseeded pods of the article contained more than 0.15 percent by weight of fibrous material, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 6-28-57. Default—delivered to charitable institutions for their use, and not for sale.

24028. Dried lima beans. (F. D. C. No. 40197. S. No. 59-249 M.)

QUANTITY: 850 100-lb. bags at Hanover and Oak Hill, Pa.

SHIPPED: 3-14-57, from Los Angeles, Calif., to Baltimore, Md., and thereafter to Hanover, Pa.

RESULTS OF INVESTIGATION: Examination showed that the article was contaminated with pigeon excreta, and that it had been stored on a pigeon-infested dock at Baltimore, Md.

LIBELED: 5-13-57, M. Dist. Pa.

CHARGE: 402 (a) (3)—contained bird excreta while held for sale; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-20-57. Consent—claimed by Hanover Canning Co., Hanover, Pa. Segregated; 75 100-lb. bags denatured for use as animal feed.

24029. Canned corn. (F. D. C. No. 40279. S. No. 45-197 M.)

QUANTITY: 125 cases, 24 cans each, at Roanoke, Va.

SHIPPED: 4-3-57 and 4-10-57, from Blanchester, Ohio, by C. E. Bates Co.

LABEL IN PART: (Can) "Avondale Cream Style Golden Sweet Corn * * *
Net Wt. 1 Lb. 1 Oz."

LIBELED: 6-15-57, W. Dist. Va.

CHARGE: 402 (a) (3)—contained worms when shipped.

DISPOSITION: 7-1-57. Consent—destruction.

24030. Canned peas. (F. D. C. No. 40072. S. Nos. 54-105/7 M.)

QUANTITY: 626 cases, 24 cans each, at Medford and Klamath Falls, Oreg.

*See also No. 24035.

SHIPPED: Between 10-3-56 and 11-28-56, from Waitsburg, Wash., by the Green Giant Co.

LABEL IN PART: (Can) "Trailer Brand Sweet Peas Contents 1 Lb. 1 Oz.
* * * Mixed Large Sizes."

LIBELED: 4-30-57, Dist. Oreg.

CHARGE: 403 (h) (1)—when shipped, the quality of the article fell below the standard of quality for canned peas since the combined weight of peas, pods, and other harmless extraneous vegetable material in the container of the article was more than $\frac{1}{2}$ percent of the drained weight of the peas in the container, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 8-30-57. Default—delivered to a charitable organization.

24031. Red peppers. (F. D. C. No. 40254. S. No. 38-320 M.)

QUANTITY: 329 bags at St. Louis, Mo., in possession of Gutman's Truck Warehouse.

SHIPPED: 1-7-57 and 1-17-57, from Pamplico, S. C.

LIBELED: 5-14-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent pellets; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-18-57. Consent—claimed by James H. Forbes Tea & Coffee Corp., St. Louis, Mo. Segregated; 24 bags plus 1,006 lbs. were destroyed.

24032. Canned mushrooms. (F. D. C. No. 40357. S. No. 71-527 M.)

QUANTITY: 10 cases, 24 16-oz. cans each, at Fargo, N. Dak.

SHIPPED: Between 11-26-56 and 4-9-57, from Wilmington, Del.

LIBELED: 6-25-57, Dist. N. Dak.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-26-57. Consent—destruction.

24033. Green olives. (F. D. C. No. 40261. S. No. 73-307 M.)

QUANTITY: 97 cases, 24 btls. each, and 99 cases, 24 btls. each, at Denver, Colo.

SHIPPED: Between 1-24-57 and 4-11-57, from Chicago, Ill., by Old Monk Co.

LABEL IN PART: "Old Monk Brand Petite Olives * * * Drained Wt. $6\frac{3}{4}$ oz.
[or "3 oz."]."

LIBELED: 5-24-57, Dist. Colo.

CHARGE: 402 (a) (3)—contained insects and rodent hairs when shipped; and 403 (e) (2)—the article in the $6\frac{3}{4}$ -oz. size bottles failed to bear a label containing an accurate statement of the quantity of contents (the article was short weight).

DISPOSITION: 7-25-57. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

24034. Canned tomatoes. (F. D. C. No. 40190. S. No. 61-268 M.)

QUANTITY: 136 cases, 24 1-lb. 12-oz. cans each, at Manchester, N. H.

SHIPPED: 9-24-56, from Nassawadox, Va., by Thomas Roberts & Co.

LABEL IN PART: (Can) "Elmdale Tomatoes."

LIBELED: 5-7-57, Dist. N. H.

CHARGE: 402 (a) (3)—contained *Drosophila* fly eggs, scavenger fly eggs, and maggots when shipped.

DISPOSITION: 6-11-57. Default—destruction.

24035. Canned tomatoes and canned sweetpotatoes. (F. D. C. No. 39674. S. Nos. 47-111/2 M.)

QUANTITY: 21 cases, 24 1-lb. 11-oz. or 1-lb. 12-oz. cans each, of canned tomatoes and 173 cases, 24 1-lb. 1-oz. cans each, of canned sweetpotatoes at Philadelphia, Pa.

SHIPPED: 7-16-56, from Chestertown, Md.

LIBELED: 11-8-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 2-7-57. Default—destruction.

24036. Tomato puree. (F. D. C. No. 40188. S. No. 61-221 M.)

QUANTITY: 24 cases, 48 cans each, at Vineland, N. J.

SHIPPED: 4-17-57, from East Hartford, Conn. This was a return shipment.

LABEL IN PART: (Can) 'Mountain Beauty Contents 10½ Ozs. Av'd. Tomato Puree.'

LIBELED: 4-26-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained fly eggs and maggots when shipped.

DISPOSITION: 5-29-57. Default—destruction.

NUTS

24037. Cashew nuts. (F. D. C. No. 40291. S. No. 57-813 M.)

QUANTITY: 59 cases, 2 25-lb. cans each, at Eastman, Ga.

SHIPPED: 2-7-57 and 2-28-57, from New York, N. Y.

LIBELED: 5-27-57, S. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects and insect-damaged nuts while held for sale.

DISPOSITION: 6-28-57. Consent—claimed by Jos. A. Zaloom & Co., Inc., New York, N. Y. Segregated; 226 lbs. destroyed.

24038. Cashew nuts. (F. D. C. No. 40290. S. No. 76-961 M.)

QUANTITY: 42 cases, 2 25-lb. cans each, at Atlanta, Ga.

SHIPPED: 2-28-57, from New York, N. Y.

LIBELED: 5-24-57, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects and insect-damaged nuts while held for sale.

DISPOSITION: 6-14-57. Consent—claimed by Jos. A. Zaloom & Co., Inc., New York, N. Y. Segregated; 50 lbs. destroyed.

24039. Shelled peanuts. (F. D. C. No. 40138. S. Nos. 33-754 M, 58-117 M.)

INFORMATION FILED: 6-12-57, W. Dist, Mo., against Bunte Bros. Chase Candy Co., a corporation, St. Joseph, Mo.

ALLEGED VIOLATION: Between 10-10-56 and 1-8-57, while a quantity of shelled peanuts was being held for sale after shipment in interstate commerce, the defendant caused the peanuts to be placed in a building that was accessible

to rodents, and to be exposed to contamination by rodents, which acts resulted in the article being adulterated.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta pellets; and 402 (a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 8-9-57. \$250 fine plus costs.

OILS AND FATS

24040. Edible oil. (F. D. C. No. 40186. S. No. 62-942 M.)

QUANTITY: 11 cans at Newark, N. J.

SHIPPED: 12-7-56, from Brooklyn, N. Y., by Lucci Sales Co.

LABEL IN PART: "Extra Fine Cielo Celeste Brand Contents One Gallon Net Composed of 75% Choice Peanut and Corn Oils 25% Pure Imported Olive Oil."

RESULTS OF INVESTIGATION: Examination showed that the article was essentially an artificially colored corn oil, with little or no peanut or olive oil present.

LIBELED: 4-26-57, Dist. N. J.

CHARGE: 402 (b) (1)—when shipped, valuable constituents, peanut oil and olive oil, had been in whole or in part omitted from the article; 402 (b) (2)—artificially colored corn oil had been substituted in whole or in part for a mixture of 75 percent peanut and corn oils, and 25 percent olive oil, which the article was represented to be; and 403 (a)—the label statement "75% * * * Peanut and Corn Oils 25% * * * Olive Oil" was false and misleading.

DISPOSITION: 6-14-57. Default—delivered to a charitable institution for its use, and not for sale.

24041. Vegetable shortening. (F. D. C. No. 40288. S. No. 64-701 M.)

QUANTITY: 10 cases, 12 jars each, at Pittsburgh, Pa.

SHIPPED: 5-9-57, from Chicago, Ill., by Douglas Food Corp.

LABEL IN PART: (Jar) "Carmel Brand Kosher Net Wt. 1 Lb. Schmaltz-E-Dige * * * Vegetable Shortening."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 6-24-57, W. Dist. Pa.

CHARGE: 403 (e) (2)—the label of the article, when shipped, failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 8-7-57. Default—delivered to a charitable institution, for consumption by the inmates.

OLEOMARGARINE

24042. Oleomargarine. (F. D. C. No. 39757. S. No. 39-562 M.)

QUANTITY: 635 cases, 30 1-lb. pkgs. each, at Atlanta, Ga.

SHIPPED: After 12-12-56, from Bristol, Va. This was a return shipment.

RESULTS OF INVESTIGATION: Investigation showed that the article was contaminated by a deleterious chemical, while en route from Atlanta, Ga. to Bristol, Va., due to damage of other cargo consisting of the chemical epichlor-

hydrin. Examination showed that the oleomargarine had an abnormal taste.
 LIBELED: 1-18-57, N. Dist. Ga.

CHARGE: 402 (a) (4)—the article, when shipped, was held in a truck under insanitary conditions whereby it may have become contaminated with a deleterious chemical; and 402 (e)—the article was unfit for food since it had an abnormal taste.

DISPOSITION: 4-22-57. Default—destruction.

STAT AND EATS POULTRY

24043. Dressed chickens. (F. D. C. No. 40344. S. No. 69-377 M.)

QUANTITY: 9 crates, some of which contained 70 lbs. and some of which contained 73 lbs. at Atlantic City, N. J.

SHIPPED: 6-25-57, from Selbyville, Del., by H & H Poultry Co.

RESULTS OF INVESTIGATION: Examination showed the presence of pellets of added diethylstilbestrol, a deleterious substance, in the edible portions of the birds.

LIBELED: 7-2-57, Dist. N. J.

CHARGE: 402 (a) (1)—contained, when shipped, an added poisonous or deleterious substance, diethylstilbestrol, which may render the article injurious to health.

DISPOSITION: 9-12-57. Consent—claimed by H & H Poultry Co. The article was brought into compliance with the law by removing and denaturing the neck of each of the chickens.

24044. Dressed poultry. (Inj. No. 299.)

COMPLAINT FOR INJUNCTION FILED: 4-13-56, M. Dist. N. C., against John W. Burwell, Jr. t/a Modern Poultry Co., High Point, N. C.

CHARGE: The complaint alleged that the defendant was engaged in preparing and distributing dressed and drawn and New York dressed poultry, and had been and was causing to be introduced and delivered for introduction into interstate commerce such poultry which was adulterated within the meaning of 402 (a) (3) and (4) by reason of the presence in the poultry of fecal material, crop material, intestines, and other filthy material, and by reason of the preparation, packing, and holding of the poultry at the defendant's plant under insanitary conditions.

It was alleged further that the insanitary conditions resulted from and consisted of the method of making the abdominal cut which severs the intestines, causing fecal material to be spread over the inside of the body cavity, the preparation of the birds in an improper manner, allowing the retention of the trachea, ventriculus, reproductive organs, or offal, which might contaminate the poultry, the presence of feathers, gizzard linings, lungs, and other miscellaneous dirt and debris on the floors and walls of the plant, and general carelessness on the part of the defendant and his employees.

The complaint alleged further that the defendant was well aware that his activities were in violation of the law; that various inspections had been made of the defendant's plant by the Food and Drug Administration; that a Notice of Hearing pursuant to Section 305 had been issued to the defendant in 1955; and that despite such warnings, the defendant failed to correct the insanitary conditions in the plant and continued to introduce into interstate commerce poultry which was adulterated as described above.

Disposition: (On 4-13-56, the court entered a temporary restraining order enjoining the defendant against the acts complained of. On 4-20-56, the defendant having consented, the court entered a decree perpetually enjoining and restraining the defendant from directly or indirectly causing to be introduced or delivered for introduction into interstate commerce, poultry or any other such article which was adulterated as alleged in the complaint.)

24045. Dressed poultry. (F. D. C. No. 40340. S. No. 75-682 M.)

QUANTITY: 473 lbs. in 7 crates at Worcester, Mass.
SHIPPED: 6-11-57, from Belfast, Maine, by Maplewood Packing Co.
LABEL IN PART: "Maine's Best * * * Hillcrest Poultry Co. * * * Chemically Treated With Diethylstilbestrol."

RESULTS OF INVESTIGATION: Examination showed the presence of pellets of added diethylstilbestrol in the edible portions of the birds.
LABELLED: 6-27-57, Dist. Mass.
CHARGE: 402 (a) (1)—when shipped, the article contained an added poisonous or deleterious substance, diethylstilbestrol, which may render the article injurious to health.

DISPOSITION: 7-22-57. Default—the necks of the poultry, which contained the diethylstilbestrol, were removed and destroyed and the remainder was delivered to a charitable organization.

SPICES, FLAVORS, AND SEASONING MATERIALS

24046. Nutmeg siftings. (F. D. C. No. 40115. S. Nos. 67-089/90 M.)

QUANTITY: 1,429 lbs. at Baltimore, Md.
SHIPPED: 1-30-57, from New York, N. Y.
LABELLED: 3-29-57, Dist. Md.
CHARGE: 402 (a) (3)—the article contained insects and insect fragments while held for sale.

DISPOSITION: 4-15-57. Consent—claimed by Karl H. Landes and E. Balint, Inc., New York, N. Y. Segregated; 657 lbs. destroyed.

24047. Imitation vanilla extract. (F. D. C. No. 40170. S. No. 45-801 M.)

QUANTITY: 52 8-oz. btls., at Lineboro, Md.
SHIPPED: 2-8-57, from York, Pa., by Morris Drug Co.
LABELLED: 4-23-57, Dist. Md.

CHARGE: 402 (a) (2)—the article, when shipped, contained an added poisonous and deleterious substance, coumarin, which is unsafe within the meaning of 406 (a), since it is a substance not required in the production of imitation vanilla extract and can be avoided by good manufacturing practice.
DISPOSITION: 5-22-57. Default—destruction.

24048. Mustard seed. (F. D. C. No. 40185. S. Nos. 64-201/3 M.)

QUANTITY: 2,400 100-lb. bags at Rochester, N. Y., in possession of Monroe Warehouse System, Inc.
SHIPPED: Between 9-5-55 and 10-17-56, from Manson and Great Falls, Mont., and Lethbridge, Alberta, Canada.
LABELLED: 4-25-57, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-13-57. Consent—claimed by Warehouse System, Inc., Rochester, N. Y. Segregated; 11,034 lbs. destroyed.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

24049. Vitamin capsules. (F. D. C. No. 40338. S. No. 68-351 M.)

QUANTITY: 1 ctn. containing 4,850 capsules at New York, N. Y.

SHIPPED: In September, 1953, from St. Louis, Mo.

LIBELED: 7-5-57, S. Dist. N. Y.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each Spheroid Contains: * * * Vitamin B₁ * * * 3.0 mg." was false and misleading.

DISPOSITION: 8-29-57. Default—destruction.

24050. Vitamin tablets. (F. D. C. No. 39728. S. No. 62-203 M.)

QUANTITY: 1,662 100-tablet tins, and 10 300-tablet tins at New York, N. Y.

SHIPPED: 3-19-56, from West Berlin, Germany.

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than 70 per cent of the declared amount of vitamin A and less than 50 per cent of the declared amount of vitamin D.

LIBELED: 1-17-57, S. Dist. N. Y.

CHARGE: 402 (b) (1)—valuable constituents, vitamin A and vitamin D, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "Each tablet contains Vitamin A 2000 I. U. * * * Vitamin D-2 * * * 100 I. U." was false and misleading.

DISPOSITION: 4-23-57. Default—destruction.

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¹ (24020, 24044) Injunction issued.
² (24021) Contempt of injunction.

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SHIPERS, MANUFACTURERS, AND DISTRIBUTORS

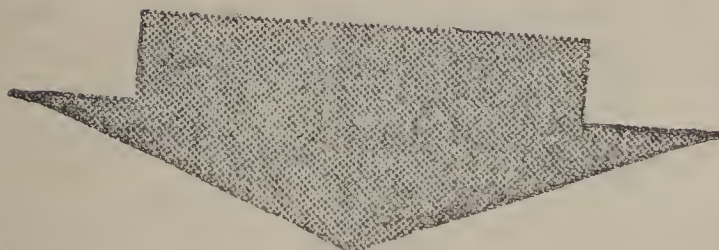
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2 (24021) Complaint of Injunction.
1 (24020, 24044) Injunction issued.

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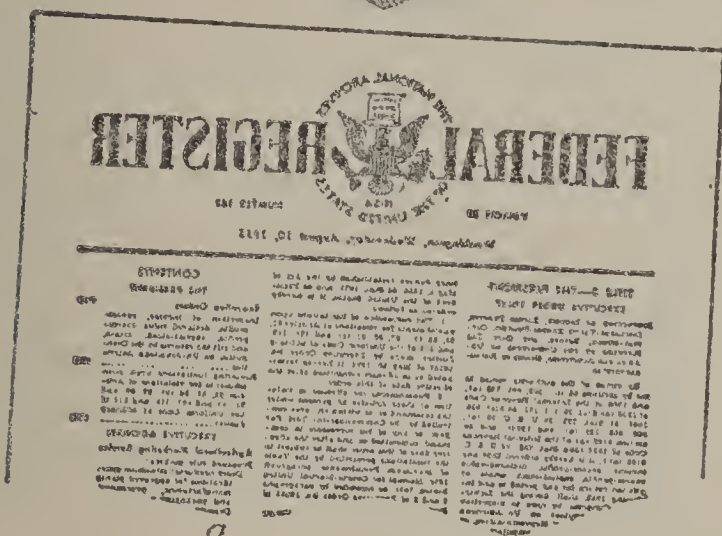
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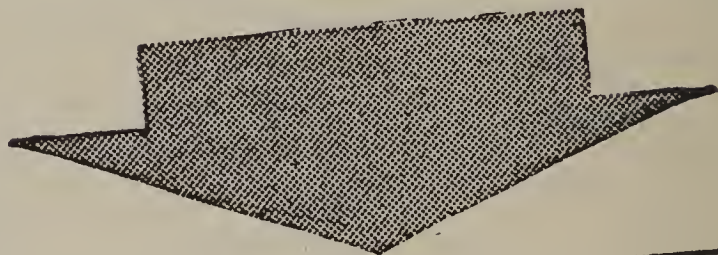
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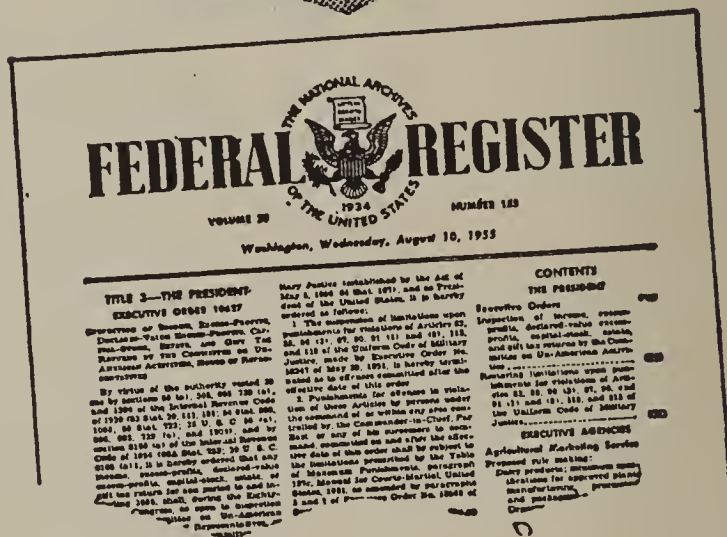
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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food Drug, and Cosmetic Act]

24051-24100

FOODS

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CURRENT SERIAL RECORD

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U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, by consent, or after trial, or in which the seized goods were delivered to the claimant after trial; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere, or dismissal after a mistrial; (3) injunction proceedings terminated with the entry of an injunction; and (4) contempt proceedings for violation of an injunction which were terminated upon a plea of nolo contendere. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal, injunction, and contempt proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *October 1, 1958.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 24051-24100**

Adulteration, Section 402 (a) (2), the article contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; and Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and/or (2) an accurate statement of the quantity of contents; Section 403 (f), certain information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403 (h) (1), the article purported to be and was represented as a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard; Section 403 (i) (1), the article was not subject to the provisions of Section 403 (g) and its label failed to bear the common or usual name of the food; Section 403 (i) (2), the article was not subject to the provisions of Section 403 (g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section 403 (k), the article contained a chemical preservative, and it failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIALS*

24051. Bourbon whisky. (F. D. C. No. 40043. S. No. 51-426 M.)

QUANTITY: 315 cases, 48 ½-pt. btls. each, at Los Angeles, Calif.

SHIPPED: 1-19-57, from Owensboro, Ky.

LIBELED: 3-11-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—while in interstate commerce, the article was unfit for food by reason of the presence of Oronite Calodorant, a trade-named odorant used for imparting odor to natural gases.

DISPOSITION: 5-23-57. Default—destruction.

*See also Nos. 24072, 24097.

24052. Coffee beans. (F. D. C. No. 39890. S. No. 63-357 M.)

QUANTITY: 6 132-lb. bags at New York, N. Y.

SHIPPED: 6-15-56, from Brazil.

LIBELED: 3-13-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained fuel oil while held for sale.

DISPOSITION: 4-10-57. Default—destruction.

24053. Green coffee. (F. D. C. No. 40285. S. No. 29-030 M.)

QUANTITY: 10 bags at San Francisco, Calif.

SHIPPED: On an unknown date, from outside the United States.

LIBELED: 6-21-57, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects, and moldy and decomposed coffee beans when shipped.

DISPOSITION: 7-9-57. Default—destruction.

24054. Green coffee. (F. D. C. No. 40332. S. Nos. 53-385/96 M, 53-398/9 M.)

QUANTITY: 532 100-lb. bags at New Orleans, La.

SHIPPED: Between 2-17-57 and 3-29-57, and on various other dates, from Brazil, Africa, and other places outside the United States.

LIBELED: 6-20-57, E. Dist. La.

CHARGE: 402 (a) (3)—contained dirt and debris; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-13-57. Consent—claimed by Mississippi Shipping Co., Inc., New Orleans, La. Reconditioned; 32 100-lb. bags destroyed.

CEREALS AND CEREAL PRODUCTS

BAKERY PRODUCTS

24055. Frozen French toast. (F. D. C. No. 39869. S. No. 60-943 M.)

QUANTITY: 149 ctns., 12 boxes each, at Watertown, Mass.

SHIPPED: 12-4-56 and 12-17-56, from Union City, N. J., by Taste Master Food Corp.

LABEL IN PART: "Net Wt. About 10 Oz. Four Big Delicious Frozen Golden Brown Slices Taste Master * * * French Toast."

RESULTS OF INVESTIGATION: Examination showed that the article had an average net weight of 6.55 ounces.

LIBELED: 2-8-57, Dist. Mass.

CHARGE: 403 (e) (2)—the article failed to bear a label, when shipped, containing an accurate statement of the quantity of contents; and 403 (f)—the statement of ingredients, required by 403 (i) (2) to appear on the label, was not prominently placed thereon with such conspicuousness (compared with other words on the label) as to render it likely to be read by the ordinary individual under customary conditions of purchase and use.

DISPOSITION: 4-8-57. Default—delivered to a public institution for its use, and not for sale.

FLOUR*

24056. Flour. (F. D. C. No. 40257. S. No. 64-190 M.)

QUANTITY: 173 100-lb. bags at Ambridge, Pa., in possession of Gutowski Bakery.

SHIPPED: 2-4-57, from Buffalo, N. Y.

LIBELED: 5-20-57, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-14-57. Default—consumption by animals.

24057. Flour. (F. D. C. No. 40211. S. No. 62-731 M.)

QUANTITY: 202 100-lb. bags at Paterson, N. J., in possession of Archbold & Co.

SHIPPED: 1-25-57, from Great Falls, Mont.

LIBELED: 5-17-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-24-57. Consent—claimed by Archbold & Co. Segregated; 190 100-lb. bags destroyed.

24058. Flour. (F. D. C. No. 40215. S. No. 61-404 M.)

QUANTITY: 999 100-lb. bags at Cambridge, Mass.

SHIPPED: 4-16-57, from Buffalo, N. Y.

RESULTS OF INVESTIGATION: Examination showed that the freight car in which the article was shipped was infested with rodents.

LIBELED: 5-17-57, Dist. Mass.

CHARGE: 402 (a) (3)—while in interstate commerce, the article contained rodent-gnawed and urine-stained bags, and rodent pellets; and 402 (a) (4)—the article was held under insanitary conditions.

DISPOSITION: 5-29-57. Consent—claimed by the New York Central Railroad Co. Segregated; 165¾ 100-lb. bags denatured.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS

24059. Matzoh meal. (F. D. C. No. 39347. S. Nos. 9-665 M, 32-047 M, 36-588 M.)

INFORMATION FILED: 10-15-56, E. Dist. N. Y., against Horowitz Bros. & Margaretten, a corporation, Long Island City, N. Y., and Irving S. Horowitz (manager) and Harold Vasa (sanitarian).

SHIPPED: Between 8-23-55 and 9-6-55, from New York to California, New Jersey, and Pennsylvania.

LABEL IN PART: (Bag) "25 lb. Matzoh Meal." (Pkg.) "12 Oz. Net Wt. Matzoh Meal Unsalted."

CHARGE: 402 (a) (3)—contained insect fragments and insect larvae; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty—by Corporation to two shipments, and by I. S. Horowitz to one shipment. Not guilty—Vasa.

*See also Nos. 24060, 24065.

DISPOSITION: Defendant Vasa moved to dismiss the charges against him. On 12-10-56, the court entered the following memorandum:

BYERS, *District Judge*: "This is a motion to dismiss an information. The possibility that the defendant Vasa was culpable in any respect, for the commission of the offense to which the corporation and the other individual defendant are said to have pleaded guilty, seems remote, if the statements in the brief filed for him on this motion, shall be borne out by the evidence. However, the information as a pleading is not attacked for legal sufficiency. That being so, the office of the court on this motion to dismiss is not to conduct a trial.

"If the case of *U. S. v. Dotterweich* (320 U. S. 277) is understood, this motion must be denied, without prejudice to renewal when the Government's case shall have been rested, at the trial.

"Settle order."

The case against defendant Vasa came on for trial on 2-18-57. A mistrial was declared on 2-20-57, due to the disagreement of the jury. On 5-31-57, the case was dismissed against defendant Vasa. On 6-28-57, the corporation was fined \$1,000 and I. S. Horowitz was fined \$500.

24060. Rye meal and rye flour. (F. D. C. No. 40350. S. Nos. 56-353/6 M.)

QUANTITY: 20 100-lb. bags of rye meal and 55 100-lb. bags of rye flour at Chicago, Ill., in possession of Wolf Flour Cartage Co.

SHIPPED: Between 11-9-56 and 4-26-57, from Watertown, Wis.

LIBELED: 7-3-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-31-57. Default—destruction.

24061. Rice. (F. D. C. No. 40205. S. No. 57-923 M.)

QUANTITY: 75 25-lb. bags at Orlando, Fla., in possession of Chitty & Co., Inc.

SHIPPED: 2-23-57, from Stuttgart, Ark.

LIBELED: On or about 5-21-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects, and bird and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-20-57. Default—destruction.

24062. Wheat. (F. D. C. No. 40268. S. No. 71-083 M.)

QUANTITY: 54,340 lbs. at Minneapolis, Minn.

SHIPPED: 5-22-57, from Freeman, S. Dak., by Shanard Elevator Co.

LIBELED: 6-5-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 6-24-57. Consent—claimed by Shanard Elevator Co., and denatured for use as animal feed.

24063. Wheat. (F. D. C. No. 40263. S. No. 77-956 M.)

QUANTITY: 60,960 lbs. at North Kansas City, Mo.

SHIPPED: 5-20-57, from Elk Creek, Nebr., by Chittenden Grain Co.

LIBELED: 5-27-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-29-57. Consent—claimed by Root Grain Co., Kansas City, Mo., and denatured.

24064. Batter mix. (F. D. C. No. 39947. S. No. 9-450 M.)

QUANTITY: 4 225-lb. bbls. at Los Angeles, Calif.

SHIPPED: 10-3-56, from Jamaica, N. Y.

LIBELED: 2-14-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects and insect parts while held for sale.

DISPOSITION: 3-5-57. Default—destruction.

24065. Breakfast food and pancake flour. (F. D. C. No. 39563. S. Nos. 58-363 M, 58-365 M.)

QUANTITY: 97 cases, 18 1-lb. 12-oz. boxes each, of breakfast food and 149 bales, 10 5-lb. bags each, of pancake flour at Denver, Colo.

SHIPPED: 7-11-56, from Atchison, Kans., by Blair Milling & Elevator Co., Inc.

LABEL IN PART: (Box) "Solitaire Breakfast Food" and (Bag) "Solitaire Self-Rising Pancake Flour."

LIBELED: 9-12-56, Dist. Colo.

CHARGE: 402 (a) (3)—contained insects, rodent excreta, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 11-21-56. Default—used for animal feed.

FISH AND SHELLFISH

24066. Frozen haddock fillets. (F. D. C. No. 40353. S. No. 61-237 M.)

QUANTITY: 485 10-lb. ctns., at Boston, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessels "Nautilus" and "Cambridge" in the Atlantic Ocean outside the limits of Massachusetts and unloaded at Boston, Mass., on 6-20-57.

LIBELED: 7-5-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 8-7-57. Consent—claimed by Columbia Seafoods, Inc., Boston, Mass. Segregated; 554 lbs. destroyed.

24067. Frozen tullibees. (F. D. C. No. 39992. S. No. 60-164 M.)

INFORMATION FILED: 4-9-57, Dist. Minn., against Pick-Shapiro Fisheries, Inc., Chicago, Ill.

SHIPPED: Between 7-20-56 and 8-3-56, from Minnesota to Illinois.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

PLEA: Nolo contendere.

DISPOSITION: 5-7-57. \$500 fine.

24068. Canned oysters. (F. D. C. No. 40270. S. No. 81-741 M.)

QUANTITY: 794 cases, 24 cans each, at Biloxi, Miss.

SHIPPED: 5-9-57, from Houma, La., by Buquet Canning Co.

LIBELED: 6-4-57, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained worms and decomposed oysters when shipped.

DISPOSITION: 9-9-57. Default—destruction.

24069. Frozen breaded shrimp. (F. D. C. No. 40309. S. Nos. 57-629/30 M.)

QUANTITY: 463 ctns., 12 10-oz. pkgs. each, and 41 cases, 12 3½-lb. pkgs. each, at Tampa, Fla.

SHIPPED: 4-25-57, from New York, N. Y.

RESULTS OF INVESTIGATION: While the article was in transit, it was left in the truck for 3 days at Raleigh, N. C.

LIBELED: 6-7-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—while in interstate commerce, the article contained decomposed shrimp.

DISPOSITION: 10-4-57. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

24070. Cranberry sauce. (F. D. C. No. 40042. S. No. 41-169 M.)

QUANTITY: 13 cases, 6 7-lb. cans each, at Minneapolis, Minn.

SHIPPED: Between 10-24-55 and 3-5-56, from Bridgeton, N. J.

LIBELED: 3-9-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained decomposed cranberry sauce while held for sale.

DISPOSITION: 5-17-57. Default—destruction.

DRIED FRUIT*

24071. Raisins. (F. D. C. No. 40193. S. No. 69-358 M.)

QUANTITY: 67 cases, 36 15-oz. pkgs. each, at Reading, Pa.

SHIPPED: 1-23-56, from San Francisco, Calif.

LIBELED: 5-10-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 6-11-57. Default—destruction.

MISCELLANEOUS FRUIT PRODUCTS**

24072. Lemon juice. (F. D. C. No. 40030. S. No. 32-905 M.)

QUANTITY: 125 cases, 24 btls. each, at Denver, Colo.

SHIPPED: 1-9-57, from St. Joseph, Mo., by Dubl-Rich Products Co.

LABEL IN PART: (Btl.) "Dubl-Rich * * * Lemon Juice 12 Fluid Ounces
* * * High in Vitamin C!"

LIBELED: 3-4-57, Dist. Colo.

CHARGE: 402 (b) (1)—valuable constituents, lemon juice and vitamin C, had been in whole or in part omitted or abstracted from the article when shipped; 402 (b) (2)—an artificially colored citric acid solution had been substituted for lemon juice; 403 (a)—the label statements "Dubl-Rich * * * Lemon Juice * * * Rich in Vitamin C!" were false and misleading as applied to a product containing less than 5 percent lemon juice and little or no vitamin C.

*See also No. 24082.

**See also No. 24097.

DISPOSITION: 4-17-57. Default—delivered to a Federal Institution for consumption by the inmates therein.

VEGETABLES AND VEGETABLE PRODUCTS

24073. Black-eyed beans. (F. D. C. No. 40267. S. No. 63-855 M.)

QUANTITY: 700 100-lb. bags at Greeley, Colo.

SHIPPED: 5-3-57, from Knights Landing, Calif., by the Oakland Bean Cleaning and Storage Co.

LIBELED: 6-3-57, Dist. Colo.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-13-57. Consent—claimed by Bean Growers Association of California, Sacramento, Calif., and converted into animal feed.

24074. Garbanzo beans. (F. D. C. No. 40203. S. No. 45-050 M.)

QUANTITY: 225 100-lb. bags at Port Covington, Md., in possession of Pan-Atlantic Steamship Corp.

SHIPPED: 3-15-57, from Los Angeles, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article was contaminated with pigeon excreta, and stored in a pier shed under insanitary conditions.

LIBELED: 5-13-57, Dist. Md.

CHARGE: 402 (a) (3)—contained bird excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-4-57. Consent—claimed by W. H. Roberts & Co., Baltimore, Md. The article was brought into compliance with the law by a thorough washing.

24075. Canned peas. (F. D. C. No. 40041. S. No. 71-450 M.)

QUANTITY: 54 cases, 24 cans each, at Minneapolis, Minn.

SHIPPED: 3-2-56, from Wisconsin Rapids, Wis., by Sampson Canning Co.

LABEL IN PART: (Can) "Sampson's * * * Sweet Peas * * * 1 lb. 4 oz."

LIBELED: 3-7-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained decomposed peas when shipped; and 403 (e) (2)—the label of the article failed to bear an accurate statement of the quantity of contents (the article was short weight).

DISPOSITION: 3-26-57. Default—destruction.

24076. Vegetable soup. (F. D. C. No. 39876. S. Nos. 45-666/7 M.)

QUANTITY: 16 cases, 24 cans each, at Norfolk, Va.

SHIPPED: 11-23-56, from Baltimore, Md., by Crosse & Blackwell Co.

LABEL IN PART: "Crosse & Blackwell Condensed Vegetable With Beef Stock Soup * * * 10¾ Ozs. Net Wt."

LIBELED: 2-21-57, E. Dist. Va.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 3-28-57. Default—destruction.

TOMATOES AND TOMATO PRODUCTS

24077. Canned tomatoes. (F. D. C. No. 40249. S. No. 65-430 M.)

QUANTITY: 254 cases, 24 cans each, at Youngstown, Ohio.

SHIPPED: 3-29-57, from Bethlehem, Md., by A. W. Sisk & Son.

LABEL IN PART: "Edgebrook Tomatoes Contents 1 Lb. 12 Oz."

LIBELED: 5-13-57, N. Dist. Ohio.

CHARGE: 403 (h) (1)—The quality of the article, when shipped, fell below the standard of quality for canned tomatoes since the drained weight of the contents of the container of the article was less than 50 percent of the weight of water required to fill the container, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 7-8-57. Consent—claimed by James L. Christopher, Preston, Md., and relabeled.

24078. Tomato paste (4 seizure actions). (F. D. C. Nos. 37371, 37502, 37511, 37593. S. Nos. 66-468 L, 4-903 M, 4-911/4, M, 5-723 M.)

QUANTITY: 1,500 cases (Civil No. 54-C-1754), 1,464 cases (Civil No. 54-C-1820), 5,951 cases (Civil No. 55-C-70), and 1,463 cases (Civil No. 54-C-1833) at Chicago, Ill. Each case contained 6 No. 10 cans.

SHIPPED: Between 10-8-54 and 11-2-54, from Clearfield, Utah, by Smith Canning Co.

LIBELED: Between 11-23-54 and 1-13-55, N. Dist. Ill. Amended libels filed on 6-27-55 against the 1,463 case lot and 1,464 case lot.

CHARGE: 402 (a) (3)—the 1,464 case lot contained insect fragments, and such lot and the 1,463 case lot contained decomposed tomato material; and 402 (a) (4)—all lots had been prepared under insanitary conditions.

DISPOSITION: The Smith Canning Co. appeared as claimant in each of the above mentioned libel actions. Pursuant to motion filed by the claimant and granted by the court on 2-14-55, the Government filed a more definite statement with respect to the charge of insanitary conditions alleged in the action against the 1,500 case and 5,951 case lots. Answers were filed by the claimant in each action denying that the article was adulterated as alleged, and subsequently an order was entered consolidating the four libel actions for trial. The trial commenced on July 26, 1955, before the court without a jury and was concluded on August 5, 1955. On August 12, 1955, the court made its findings of fact and conclusion of law and entered judgment in each action directing that the article be returned to the claimant, except for a small portion of the lot of 1,464 cases which was ordered condemned. A notice of appeal to the United States Court of Appeals for the 7th Circuit was thereupon filed, and on 8-18-55, an order was entered by that court staying the execution of the judgment of the lower court pending determination of the appeal. On July 13, 1956, after considering the arguments and briefs of counsel, the following opinion was handed down by the court of appeals [236 F. 2d 208]:

SWAIM, *Circuit Judge*: "This is an appeal by the United States from the judgments in the combined prosecution of four libels (designated in the District Court as 54-C-1754, 54-C-1820, 54-C-1833 and 55-C-70) condemning approximately 10,370 cases of tomato paste as 'adulterated' within the meaning of 21 U. S. C. A. Section 334 (a). The paste was canned by the Smith

Canning Company in Clearfield, Utah, and shipped to Chicago where it was seized by the United States Marshal.

"The libels in actions 54-C-1754 and 55-C-70 alleged that the paste seized thereunder was 'adulterated,' in that it had been prepared under 'insanitary conditions' as defined by 21 U. S. C. A. Section 342 (a) (4). The libels, as amended, filed in cases 54-C-1820 and 54-C-1833 charged that the paste involved in those cases was adulterated because it had been prepared under insanitary conditions whereby it may have become contaminated with filth (Section 342 (a) (4)); and because it consisted wholly or in part of a 'filthy, putrid, or decomposed substance' as defined by 21 U. S. C. A. Section 342 (a) (3): decomposed tomato material in number 54-C-1833, and decomposed tomato material and insect parts in number 54-C-1820.

"After an extensive hearing, the record of which comprises some 1700 pages, the trial judge found the issues against the Government with regard to all but a small amount of tomato paste seized in case number 54-C-1820. With the exception of that small amount, the seized tomato paste was ordered released to the claimant owner.

"The Federal Food, Drug and Cosmetic Act, as amended, 21 U. S. C. A. Section 301, et seq., provides that any article of food in interstate commerce that is 'adulterated or misbranded' may be seized and condemned, 21 U. S. C. A. Section 334 (a). The Act provides the following definition of 'adulterated':

A food shall be deemed to be adulterated—

(a) * * * (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been prepared, packed, or held under insanitary conditions whereby it may become contaminated with filth, or whereby it may have been rendered injurious to health * * *. 21 U. S. C. A. Section 342.

"Despite the plain language of the section it has been generally held that the two 'if' clauses in subsection (3) above are disjunctive, and that the words 'otherwise unfit for food' do not limit the first part of the subsection which bans food in whole or in part filthy, etc., as adulterated. *United States v. 449 Cases, etc.*, 2 Cir., 212 F. 2d 567; *Bruce's Juices v. United States*, 5 Cir., 194 F. 2d 935; *Salamonie Packing Co. v. United States*, 8 Cir., 165 F. 2d 205; *United States v. 44 Cases, etc.*, 101 F. Supp. 658; *United States v. 935 Cases, etc.*, 65 F. Supp. 503. However, there have been dissenting voices. See Judge Frank's dissenting opinion in *United States v. 449 Cases, etc.*, 2 Cir., *supra*, at page 575.

"We find it impossible to agree with the accepted interpretation of Section 342 (a) (3), 21 U. S. C. A., without ignoring completely the word 'otherwise' therein. The majority opinion in *United States v. 449 Cases, etc.*, *supra*, seems to argue that this is just what should be done, because the Meat Inspection Act of 1907 continually uses the phrase 'unfit for human food' sometimes with 'otherwise' and sometimes without it. It has also been suggested that Congress wanted to protect 'the aesthetic tastes and sensibilities of the consuming public,' and therefore intended that food containing 'any filthy, putrid, or decomposed substance' be deemed adulterated whether it was 'unfit for food' or not. *United States v. 133 Cases of Tomato Paste*, 22 F. Supp. 515. Congress may also have wanted to set a standard of purity well above what was required for the health of the consuming public, knowing that not every food product can be individually inspected. If the standard is set at the level of what is 'fit for food' or not injurious to health, the occasional substandard item that slips by both industry and Government scrutiny will be hazardous to the health of the consumer. A minimum standard of purity above what is actually the level of danger will, however, allow fewer products to drop below that level. A high standard will also have the same effect by encouraging more careful industry inspection. Therefore, we prefer to follow the general rule in interpreting Section 342 (a) (3), although admitting that we are unable to answer Judge Frank as to why Congress put the word 'otherwise' in the section.

"The interpretation we have chosen has one serious disadvantage which most courts have recognized. It sets a standard that if strictly enforced, would ban all processed foods from interstate commerce. A scientist with a microscope could find filthy, putrid, and decomposed substances in almost any

canned food we eat. (The substances which it is claimed render the respondent 'adulterated' were visible only through a microscope.) The conclusion is inescapable that if we are to follow the majority of the decisions which have interpreted 21 U. S. C. A. Section 342 (a) (3), without imposing some limitation, the Pure Food and Drug Administration would be at liberty to seize this or any other food it chose to seize. And there could be no effective judicial review except perhaps for fraud, collusion, or some such dishonest procedure. Such a position is not indefensible. Congress has obviously found it difficult, if not impossible, to express a definite statutory standard of purity that will receive uniform interpretation. And this court is acutely aware of the fact that it is not the proper body to more narrowly define broad standards in this area so that they can be applied in a particular case. Courts know neither what is necessary for the health of the consuming public nor what can reasonably be expected from the canning industry. Furthermore, this is not a determination that should be made individually for each case on the basis of expert testimony. The Food and Drug Administration should set definite standards in each industry which, if reasonable, and in line with expressed Congressional intent, would have the force of law.

"Despite our limitations as a court and the fact that Section 342 (a) (3), 21 U. S. C. A., does not give us any power to limit the inescapable force of the words, 'if it consists in whole or in part of any filthy, putrid, or decomposed substance,' we do not think that Congress intended to let the acts of the agency under this subsection go completely without limitation. In Section 346, 21 U. S. C. A., Congress directed that the administrator provide tolerances for amounts of poisonous or deleterious substances that cannot be avoided and are not injurious to health. It would not be reasonable to think that Congress would direct the administrator to set tolerances for the allowance of safe amounts of *poisons* in food and then declare that the presence of small amounts of filth, etc., which would admittedly have no effect upon health 'adulterates' food and justifies its seizure. We believe that if the fact that almost all food contains some filthy, putrid, and decomposed substances had been called to the attention of Congress, that body would have directed the administrator to provide reasonable and acceptable tolerances for these substances just as it did in the case of poisons.

"The spirit of 21 U. S. C. A. Sections 346 and 346a demands that we give effect to what reasonable standards have been set by the Food and Drug Administration in the area involved in this case, and determine them as best we can where they have not yet been established. The decomposed tomato material which the respondent is accused of containing is commonly referred to as rot. A tomato containing rot is simply a tomato parts of which have begun to decompose. This is not at all uncommon and such fruits are perfectly good if all of the decomposed portions can be cut out. Several different things cause tomatoes to decompose but by far the most common cause is mold. Because of this fact there has been developed a technique known as the Howard Mold Count which purports to estimate the amount of decomposition or rotting that has gone on in the tomatoes from which paste or juice has been made by measuring the amount of mold present in the finished product. The presence of mold proves that some rotting has taken place, but the absence of mold does not prove that no rotting has occurred. Add to this the fact that the Howard Mold Count system is susceptible to a fair degree of error in determining the amount of mold in a substance, and we have a rather inadequate method of measuring the amount of decomposition. Nevertheless, it seems to be the only practical method known at the present time, and has received the approval of both the Government and the food industry.¹ The Food and Drug Administrator with industry cooperation has

¹ Witness Eisenberg testified that he and Dr. John D. Wildman had developed what he called the "rot fragment method." (R. 764, et seq.) Although this method was never fully explained it seems to be another means of measuring mold fragments by filtering them out of the sample and counting the number retained by the filter. As we understand Mr. Eisenberg's testimony, the rot fragment method, like the Howard Mold Count method, measures only the decomposition that is caused by mold. Of course, decomposition by bacteria would not create fragments that could be filtered out of the paste.

arrived at a tolerance for tomato paste which is expressed as 40 per cent under the Howard Mold Count method of measurement. The Administration has announced that it will not seize tomato paste on the basis of mold count alone unless that count is over 40 per cent. We, in our search for standards in this area, accept this administrative tolerance as a proper measure of what approximated amount of decomposition is allowable in tomato paste. A properly obtained mold count of over 40 per cent will, therefore, be considered sufficient grounds for seizing tomato paste if the Food and Drug Administrator chooses to do so.

"The record in this case does not disclose any established tolerances for what is termed 'filth' in tomato paste: worm fragments, insects and insect fragments, fly eggs, etc. We can only judge on the basis of the testimony of experts as to what amounts are usual or unavoidable.

"Section 342 (a) (4), 21 U. S. C. A., has seldom been interpreted by a federal court. (We have found only four cases dealing with it directly: *Berger v. United States*, 8 Cir., 200 F. 2d 818; *Triangle Candy Co. v. United States*, 9 Cir., 144 F. 2d 195; *United States v. Roma Macaroni Factory*, 75 F. Supp. 663; *United States v. Lazere*, 56 F. Supp. 730.) Section 342 (a) (4) provides that food is adulterated if it is 'packed, or held under insanitary conditions where it may have become contaminated with filth.' Whether or not a given factory is insanitary under this subsection is, of course, a question of fact, but the standard is so expressed, perhaps unavoidably, that the decision is likely to be highly subjective. Therefore, when we are dealing, as here, with products that, admittedly, will not affect the public health or sensitivities, we have a natural tendency to equate the standard with the average condition of canneries throughout the country. If the Federal Food and Drug Administration desires to improve that average, it would be more likely to receive the support of the courts if it promulgated regulations which provided detailed standards as to cleaning procedures, screens, hygiene facilities, etc., publishing them to food packers as the requisites for complying with 21 U. S. C. A. Section 342 (a) (4), and *then* seizing food packed in plants not meeting the specific standards set. So much for the law which we must apply to the facts of this case. All of the Government's arguments on appeal, with one exception, are that the trial court's findings of fact are clearly erroneous.

"The District Court concluded that the Government had not proved by a preponderance of the evidence that the respondent had been prepared under insanitary conditions whereby it may have been contaminated by filth. The Government introduced considerable evidence (both pictures and testimony of Government inspectors) to show that the area surrounding the canning factory, and particularly a migratory labor camp maintained by the company, was in a dirty, 'insanitary' condition. The record contains pictures of piles of trash, pools of water, and dirty, inoperative rest rooms in and around the labor camp. Testimony for the claimant disclosed that wet areas of ground were covered with gravel as soon as possible after the first inspection, rest rooms were repaired as soon as they broke down, garbage in the labor camp was collected twice a week before the first inspection and every day thereafter, and that a local exterminator sprayed the entire area for insects regularly as he himself deemed it necessary. The trial court found that:

It appeared that the labor camp had been located on the said 13½ acres for the past 14 years, and was for the housing of field workers only, and did not serve as living quarters for any of the employees working in the plant. Finding of Fact number 17.

In the same Finding the court said, 'the labor camp was too far removed from the cannery to have any possible effect upon the quality or purity of the merchandise being processed therein.' And the Government in its brief contends that 'the sole question on this phase of the case is whether the undeniably filthy conditions may be dismissed as "inconsequential" because they were "outside the processing room" or "remote from the holding vats" * * *.'

"The effect to be given the distance of seemingly filthy conditions from the place where the food is 'prepared, packed or held' is itself a question of fact to be determined in the light of the total picture.

"Testimony varied slightly on how far distant the labor camp was from the canning plant, but the trial court found it was between 150 and 200 feet at the closest point. The Government's principal argument in its claim that dirty conditions in the labor camp were causing the tomato paste to be contaminated with filth, was that the camp attracted large numbers of flies which carried bacteria, etc., to the factory. Yet Mr. Alvord, Utah State Food Inspector, testified that when he was in the Smith Canning Company plant on September 16, 1954, the fly problem was 'nil.' He said that this cannery was better than most in this regard (pages 1430-1 of the record). The Government had the burden of convincing the trial court that the labor camp was close enough to the canning factory to effect the alleged 'conditions' under which the respondent tomato paste was 'prepared, packed, or held.' The court found that the Government had not sustained that burden, and the evidence is not so one-sided that we can say that the decision was clearly erroneous.

"The Government also attempted to prove that insanitary (sic) conditions existed inside the plant itself. Evidence on the condition of the plant was based upon inspections made by federal inspectors on September 16 and 17, September 21, and October 15. They testified that during their inspection in September they noticed unscreened openings into the sorting room with many flies present, and dried tomato material on machinery. This testimony was opposed by testimony of State Inspector Alvord that the fly problem at this plant was nil, and testimony by Richard Smith (R. 1777) and Melvin Wood that the machinery was thoroughly cleaned every day with water, detergents, live steam and brushes where necessary (R. 1571-3). We might not have found the facts as the trial judge did, but with testimony to support his finding we cannot say that it is clearly erroneous. The pictures, which the Government claims make it possible for us to decide certain facts as well as the trial judge, do not show whether the deposits on the machinery are due to weeks of accumulation or just a few hours run.

"The testimony of the Government inspectors about the activities of the women on the sorting line is best answered by our discussion (infra) of the microscopic analyses that were done on the finished product. Sections 342 (a) (3) and (4) are closely related, but evidence as to the sorting and trimming of the tomatoes going into the paste, seems more material to purity of product (subsection (3)) than to cleanliness of the plant (subsection (4)).

"When the inspectors visited the plant on October 15, they found animal excreta on the second floor and a bird's nest in the rafters of a corner of the vat room. However, the court found (and it is not challenged) that:

No merchandise involved in this seizure action was packed after October 9. The plant had completed its regular commercial operations on October 12, and was closed down on October 13 and 14. On October 15 it reopened, at the request of some of claimant's growers and local farmers, to run through for them some odd lots of tomatoes, and for local consumption. Finding of Fact number 12, R. 2103.

It is clear that none of the paste involved in the seizure was packed on October 15, or thereafter. Therefore, there is no evidence that the things seen by the inspectors only on October 15, were in the plant when the respondent paste was 'prepared, packed, or held.'

"We cannot say that the trial court was clearly wrong in finding that the Government did not prove by a preponderance of the evidence that the respondent paste was 'adulterated' within the meaning given in 21 U. S. C. A. Section 342 (a) (4).

"In the cases designated in the District Court as 54-C-1833 and 54-C-1820 the Government alleged that the paste seized therein was also adulterated under the definition in 21 U. S. C. A. Section 342 (a) (3), in that it consisted in part of a 'filthy, putrid, or decomposed substance * * *.' We have already discussed the manner in which we are going to apply this section. The four codes (a code consists of all the cans filled in a certain period of time) which the District Court ordered seized all had average counts over 40 per cent of positive fields, and the judge was therefore correct in finding that they contained 'mold in excess of what is permitted to be shipped in interstate commerce.' Yet, as the Government points out, there are other codes that also have an average mold count above 40 per cent. This court holds that as a

matter of law all tomato paste having a mold count (or an average mold count where several valid counts are taken) of over 40 per cent of positive fields found, is adulterated under 21 U. S. C. A. Section 342 (a) (3). The record shows that all the codes involved in this proceeding which were canned in October 1955, and bear the code letter 'J', have an average mold count above 40 per cent. The Government should be allowed to seize these codes. All of the codes canned in September, bearing the code letter 'I,' have an average mold count of less than 40 per cent, and therefore cannot be seized on that ground.

"The claimant complains that the Howard Mold Count system has a large margin of error and that subsequent counts might be well below the tolerance. We acknowledge that this is true, but point out that by the same reasoning they might be *above* the counts introduced in evidence. Of course, allowances can always be made, but in this case, since there is nothing to indicate that the tests were more likely to be in error in one direction than the other, it seems best to adhere to the accepted standard of 40 per cent. The Government and the canning industry must have taken into consideration the margin of error inherent in the Howard Mold Count system when they set 40 per cent as the tolerance. Any deviation from that figure on our part would be purely arbitrary without any evidence that error was more likely in one direction than the other.

"The old maxim that the law cares not for small things which the Government thinks was the principle the trial court used in releasing some of the codes with average mold counts over 40 per cent (Government brief, p. 54) is not here applicable. The tolerance is admittedly a somewhat arbitrary standard, but one that has been agreed upon by all the parties involved. The line must be drawn somewhere, and it has been validly drawn at 40 per cent. Forty-one per cent is not just a slight amount of mold, it is a slight amount over a standard that already has allowed for a large margin of error. A definite line must be drawn, and we will apply the one that has been approved by the industry and the Government.

"Various microscopic examinations were also done for insect and worm fragments. Since the 'J' codes will be seized because of their mold counts, we need further consider only the 'I' codes. And of the 'I' codes only those seized in case 54-C-1820, because that is the only case in which the libel alleged that the paste contained insect fragments.² Although there do not seem to be any acceptable norms for insect and worm fragments, we can get a good idea of how the 'I' codes here compare with other tomato paste from the testimony of Emil Cassidy, a research chemist with the American Can Company. Mr. Cassidy testified that one corn ear worm in a tomato might be responsible for 150-200 worm fragments in the finished paste, and an equal number of seta (the small hairs by which the worms propel themselves). The witness was then shown Government exhibit number 102 which is the report of a microscopic examination of 20 codes all bearing the code letter 'I'. He was asked whether he thought the report on each code in turn indicated that it was a good or a bad pack. The first code had a worm fragment count of 4, and the witness said he considered it a good pack. When asked why, he testified:

A. Well you have got very little mold count there; *your worm fragments are very low*. I don't know what the tolerance is, but there isn't any tolerance that I know of.

This is low compared to a lot of them I have seen. (Record, p. 1658.)
(Our emphasis.)

The highest worm fragment count shown on exhibit 102 is 6. Insect fragments were in the same general range, and the other examinations made do not show worm and insect fragments in 'I' codes appreciably different from those in exhibit 102. The record fully supports the trial court's finding that these counts 'were so low that they are regarded by this Court as insignificant and of no consequence.'

² We have not been able to determine from the record exactly which codes were seized in a particular case so we are forced to speak of all the "I" codes as if they were seized in case 54-C-1820, and therefore accused of containing insect fragments. Since there are so many reports of worm fragment counts, we will include them under the allegations of "insect fragments."

"The same is true of other foreign bodies found (fly eggs, etc.). The rodent hairs found in two of the codes in exhibit 102 seemed to be rare, and none of the witnesses knew how to evaluate their presence. But a very small number were found and in only a few of the codes. There is nothing in the record to indicate that the trial court was wrong in finding their presence inconsequential.

"For the reasons discussed above, we hold that the codes canned in September and identified by the code letter 'I' are not adulterated, and as to them the judgments below are affirmed. As we said above, we hold that all 'J' codes are adulterated, so the portion of the judgment holding that four 'J' codes are adulterated is affirmed, and those portions of the judgments holding that the rest of the 'J' codes are not adulterated are reversed. The cause is remanded for proceedings in conformity with this opinion.

"AFFIRMED IN PART, REVERSED IN PART AND REMANDED."

In accordance with the above opinion, the lots of 1,500 cases and 5,951 cases were returned to the claimant; and as to the lots of 1,463 cases and 1,464 cases, decrees of condemnation were entered on September 18, 1956. Under these decrees, it was ordered that the lots of 1,463 cases and 1,464 cases be released to the claimant, under bond, for segregation of the "I" and "J" codes, and that after such segregation, the cans coded "I" be disposed of by the claimant as it should see fit, and that the cans coded "J" be labeled with the legend "For Animal Food Only." As a result of the segregation operations, 2,200 cases, each containing 6 No. 10 cans of the "J" code, were labeled with the above legend.

On 1-9-57, upon the motion of the claimant, and after consideration of the arguments of counsel, the district court entered judgment directing that the Food and Drug Administration pay certain costs incurred prior to seizure with respect to the lots of 1,500 cases and 5,951 cases. An appeal from such judgment was taken to the Court of Appeals for the 7th Circuit, and on 11-14-57, the following opinion was handed down:

DUFFY, *Chief Judge*: "The United States filed two libels of information against several carloads of tomato paste charging them to be adulterated within the meaning of the Federal Food, Drug, and Cosmetic Act (21 U. S. C. A. § 334 (a)). Pursuant to monitions issued by the District Court, the United States Marshal seized the tomato paste on December 8, 1954 and on January 18, 1955. On those dates the tomato paste was stored in Crooks Terminal Warehouse in Chicago.

"The paste was canned in Utah by the Smith Canning Company and was shipped to Chicago, Illinois. By order of the District Court, Smith Canning Company was permitted to segregate and take samples of the tomato paste which had been seized in order to test same and for purposes of analysis. Thereafter, Smith Canning Company intervened as owner-claimant and filed answers.

"After a non-jury trial, the District Court held the United States had failed to prove the alleged adulteration. Upon appeal to this Court, the judgment was affirmed in part and reversed in part. 236 F. 2d 208. We held the tomato paste designated 'J' code was adulterated, while that designated under 'I' code was not.

"Upon remand, Smith Canning Company made a motion to tax and fix the charges for storage. The United States acknowledged its liability for storage charges for the period commencing with the date of seizure, and ending with the date of release, and has paid such charges. Claimant, however, insisted it should be awarded \$2,268.09 additional to cover the period prior to the seizure of the tomato paste by the Food and Drug Administration. The pre-seizure charges arose from unloading the railroad cars and moving the cartons of tomato paste to a place of storage in the terminal warehouse. This was done on orders of the Campbell Soup Company to whom the shipments had been directed, and who had refused to accept delivery after learning the Food and Drug Administration desired to obtain samples for laboratory analysis.

"The District Court ordered the payment of the pre-seizure storage charges on the theory that the Food and Drug Administration 'intercepted' the carloads of tomato paste in transit because some unnamed official or employee of the Food and Drug Administration ordered the warehouse people not to release the goods because they had been recommended for seizure. The Court thought such action in effect 'layed an embargo' on the goods and prevented their use. The District Court found that the storage handling and other charges made by the warehouse 'prior to the service of the monitions' would not have occurred except for the 'interdiction' of the paste by the Food and Drug Administration. The Court ordered that the Food and Drug Administration pay the charges out of its appropriation for the enforcement of the Federal Food, Drug, and Cosmetic Act.

"The United States argues that the District Court, in effect, taxed costs against the Government and claims the Court had no right to do so. Reliance is had on Title 28 U. S. C. § 2412 which provides: '(a) The United States shall be liable for fees and costs only when such liability is expressly provided for by Act of Congress.' It is without question that the Food, Drug, and Cosmetic Act does not provide for allowance for costs to a claimant successful in opposing libels brought by the United States. See *United States v. French Sardine Co., Inc.*, 9 Cir., 80 F. 2d 325; *United States v. Poling Russell, Inc.*, 2 Cir., 212 F. 2d 184. Nor is there any other statute authorizing the taxation of costs against the Government in a case such as we have before us on these appeals.

"Claimant argues that the District Court did not assess costs against the United States, but, instead, ordered the United States to pay the claimant 'probable legal damages which claimant suffered because of the commission of a wrongful act by an employee of the Government while acting within the scope of his office and employment.' Claimant insists that the District Court had jurisdiction under the Federal Tort Claims Act, Title 28 U. S. C. § 1346 (b)) to assess damages because such damages grew out of the negligence or wrongful act or omission of an employee of the Government while acting within the scope of his office or employment under circumstances where the United States, if a private person, would be liable to the claimant.

"There was no claim or cause of action before the District Court which was based on the Federal Tort Claims Act. From the record it is doubtful that the Tort Claims Act was even mentioned in the District Court. Assuming, however, the theory now advanced is properly before us for consideration, we hold that the Federal Tort Claims Act is no basis for the District Court's award of damages in the cases before us.

"The Federal Tort Claims Act provides for a civil action against the United States for money damages. As a basis for such an action, there must be a complaint or other pleading showing the claimant is making a claim against the United States within the confines and limits of that Act. In the cases at bar, there was no such pleading, nor was any such issue tried in the District Court. Furthermore, the statute outlining tort claims procedure provides that the Tort Claims Act shall not apply to any claim arising from the 'detention of any goods or merchandise by any officer of customs or excise or any other law-enforcement officer.' 28 U. S. C. § 2680 (c).

"We think there is still another obstacle to the entry of damages against the United States in actions under the Federal Food, Drug, and Cosmetic Act. Title 28, U. S. C. § 2465 provides: 'Upon the entry of judgment for the claimant in any proceeding to condemn or forfeit property seized under any Act of Congress, such property shall be returned forthwith to the claimant or his agent; but if it appears that there was reasonable cause for the seizure, the court shall cause a proper certificate thereof to be entered and the claimant shall not, in such case, be entitled to costs, nor shall the person who made the seizure, nor the prosecutor, be liable to suit or judgment on account of such suit or prosecution.' It is true the District Court did not enter a certificate as provided in the statute—undoubtedly no such request was made. But there can be no doubt that there was reasonable ground for the seizures in the cases which are now before us.

"We hold the District Court was entirely without authority to assess damages against the United States. The judgment holding that the Federal Food and Drug Administration, an agency of the United States of America, pay damages in the sum of \$2,268.09 is reversed."

NUTS AND NUT PRODUCTS

24079. Cashew nuts. (F. D. C. No. 40305. S. No. 68-444 M.)

QUANTITY: 77 tins, 2 25-lb. cans each, at New York, N. Y.

SHIPPED: 1-2-57, from India.

LIBELED: 6-5-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 7-8-57. Consent—claimed by Joseph A. Zaloom & Co., Inc., New York, N. Y. Segregated; 339 lbs. destroyed.

24080. Shelled peanuts (2 seizure actions). (F. D. C. Nos. 40299, 40301. S. Nos. 76-896 M, 76-962 M.)

QUANTITY: 125 100-lb. bags at Atlanta, Ga., in possession of Drennon Food Products Co.

SHIPPED: 1-22-57, from Suffolk, Va.

LIBELED: 5-31-57, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-17-57. Consent—claimed by Drennon Food Products Co. Segregated; 689 lbs. destroyed.

24081. Shelled peanuts. (F. D. C. No. 40281. S. No. 48-618 M.)

QUANTITY: 28 ctns. at Grand Rapids, Mich.

SHIPPED: 5-24-57, from Indianapolis, Ind., by Peanut Products Co.

LABEL IN PART: "Processed With Vegetable Oil and Salt * * * Buster 10 Lbs. Net Spanish Salted Peanuts."

LIBELED: 6-17-57, W. Dist. Mich.

CHARGE: 403 (f)—the declaration of ingredients on the label of the article, when shipped, was not prominently placed thereon with such conspicuousness and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; 403 (i) (2)—the label of the article failed to bear the common or usual name of each ingredient, since propyl gallate and butylated hydroxyanisole have not been declared; and 403 (k)—the label of the article failed to state that it contained chemical preservatives.

DISPOSITION: 7-24-57. Default—delivered to a charitable institution for its use, and not for sale.

24082. Walnut flakes, prunes, and horseradish. (F. D. C. No. 39870. S. Nos. 62-095/7 M.)

QUANTITY: 17 25-lb. ctns. of walnut flakes, 65 25-lb. cases and 35 30-lb. cases of prunes, and 23 500-lb. barrels of horseradish at Brooklyn, N. Y.

SHIPPED: The walnuts from which the walnut flakes were prepared were imported from Iran on 6-17-55; the prunes were shipped from San Jose, Calif., on 11-16-55; and the horseradish roots from which the horseradish was prepared were imported from West Germany between 12-11-53 and 2-5-54.

LIBELED: 2-14-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—while held for sale, the walnut flakes contained rodent pellets, insects, insect excreta and webbing; the prunes were insect infested

and moldy; and the horseradish contained decomposed horseradish, fruit flies, and fruit fly pupae.

DISPOSITION: 3-20-57. Default—destruction.

OILS AND FATS

24083. Table and cooking oil. (F. D. C. No. 40325. S. No. 62-957 M.)

QUANTITY: 36 ctns., 6 1-gal. cans each, at New Haven, Conn.

SHIPPED: 4-1-57, from Brooklyn, N. Y., by Lucci Sales Co.

LABEL IN PART: (Can) "Extra Fine Cielo Celeste Brand Contents One Gallon Net Composed of 75% Choice Peanut & Corn Oils 25% Pure Imported Olive Oil."

RESULTS OF INVESTIGATION: Examination showed that the article was essentially an artificially flavored peanut oil or corn oil with little or no olive oil present.

LIBELED: 6-18-57, Dist. Conn.

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in whole or in part omitted from the article when shipped; 402 (b) (2)—artificially flavored vegetable oil had been substituted in whole or in part for a mixture of 75 percent peanut and corn oils and 25 percent olive oil which the article was represented to be; and 403 (a)—the label statement "75% * * * Peanut and Corn Oils 25% * * * Olive Oil" was false and misleading.

DISPOSITION: 1-20-58. Default—delivered to a charitable institution for its use.

24084. Table and cooking oil. (F.D. C. No. 40165. S. No. 62-757 M.)

QUANTITY: 35 1-gal. cans, at Clifton, N. J.

SHIPPED: Between 1-4-57 and 2-14-57, from New York, N. Y., by G. Cuccia & Sons, Inc.

LABEL IN PART: (Can) "Cielo Celeste Brand * * * Composed of 75% Choice Peanut & Corn Oils 25% Pure Imported Olive Oil Packed by Lucci Sales Co., Brooklyn, N. Y."

RESULTS OF INVESTIGATION: Examination showed that the article was a mixture of vegetable oils other than peanut and corn oil, with little or no peanut oil, corn oil, or olive oil present.

LIBELED: 4-17-57, Dist. N. J.

CHARGE: 402 (b) (2)—when shipped, a vegetable oil, or mixture of vegetable oils other than peanut oil and corn oil, had been substituted in whole or in part for a mixture of 75 percent peanut and corn oils and 25 percent olive oil; and 403 (a)—the label statement "75% * * * Peanut & Corn Oils 25% * * * Olive Oil" was false and misleading.

DISPOSITION: 5-31-57. Default—delivered to a charitable institution for consumption, and not for resale.

POULTRY

24085. Dressed and cut-up poultry. (Inj. No. 296.)

COMPLAINT FOR INJUNCTION FILED: 11-15-55, N. Dist. Ga., against Etowah Poultry Co., Inc., Canton, Ga., and W. B. Anderson, president.

CHARGE: The complaint alleged that the defendants were engaged in preparing and distributing dressed, drawn, and cut-up poultry, and had been and

were introducing and causing to be introduced into interstate commerce, such poultry which was adulterated within the meaning of 402 (a) (4) by reason of being prepared, packed, and held under insanitary conditions.

It was alleged further that the insanitary conditions resulted from and consisted of the presence of fecal material, crop material, and other miscellaneous dirt and debris on the floors and walls of the defendants' plant at Canton, Ga., and in and around the equipment used in preparing, packing, and storing the poultry, the presence of hundreds of flies throughout the plant, broken window panes on unscreened windows, ill-fitting screen doors, ill-fitting doors on rest-rooms permitting flies to enter the toilets and return to other parts of the plant, the lack of adequate toilet facilities for employee use, the use of dirty ice in packing the finished product, and general carelessness on the part of the defendants and their employees.

The complaint alleged further that the defendants were well aware that their activities were in violation of the law; that various inspections had been made by the Food and Drug Administration; that the defendants had been issued a notice of hearing pursuant to Section 305; and that despite such warnings the defendants failed to correct the insanitary conditions in their plant and continued to introduce into interstate commerce poultry adulterated as described above.

DISPOSITION: On 11-23-55, after hearing and with the consent of the defendants, the court entered a temporary injunction enjoining the defendants from causing to be introduced and delivered for introduction into interstate commerce, dressed, drawn, and cut-up poultry or any other such article of food which

(a) was contaminated with fecal matter, crop material, or like filthy substance,

(b) had been prepared, packed, or held in a plant in which fecal matter, crop material, miscellaneous dirt or debris were present on the floors and walls, or allowed to accumulate on the floors, or in and around the equipment used in the production of the article,

(c) was produced in a plant infested with flies or other insects,

(d) was prepared by the cutting of the abdominal cavity of birds in such manner that material from the intestines and crop became smeared on the food, or was prepared in an improper manner allowing the retention of the windpipe, lungs, gizzard material, reproductive organs, or offal which might contaminate the article,

(e) was produced in a plant without adequate screens, or with broken window panes,

(f) was produced in a plant which failed to provide adequate toilet facilities for employees, and supervision to insure the use of such facilities by such employees,

(g) was produced in a plant permitting waste water, intestines, and offal to collect in, under, or around said plant,

(h) was produced in a plant which failed to provide for sanitary handling of liver, hearts, giblets, and gizzards, or

(i) was produced in a plant which permitted the use of improper equipment, unfit ice, careless handling of the food, or allowed diseased employees, or employees with cuts on fingers, or other injuries, to work around the premises.

On 6-26-56, the defendants having consented, a permanent injunction in essentially the same terms as the temporary injunction was entered against the defendants.

24086. Dressed poultry. (Inj. No. 296.)

PETITION FILED: 10-26-56, N. Dist. Ga., against Etowah Poultry Co., Inc., Canton, Ga., and W. B. Anderson, president, to show cause why they should not be punished for criminal contempt for violation of the temporary injunction and of the permanent injunction entered against them on 11-23-55 and 6-26-56 respectively (see preceding notice of judgment No. 24085).

CHARGE: The petition alleged that the defendants shipped, on 5-23-56, from Georgia to Florida in violation of the temporary injunction and, on 8-7-56, from Georgia to Florida in violation of the permanent injunction, quantities of dressed poultry which were adulterated under 402 (a) (4) because they had been prepared, packed, and held under insanitary conditions.

The petition alleged further that inspections of the defendants' plant at Canton, Ga., had been made by the Food and Drug Administration on 2-14-56, 5-28-56, and 8-10-56, which revealed that the defendants were preparing, packing, and holding dressed poultry under insanitary conditions. Such conditions resulted from and consisted of the presence of fecal matter, crop material, or other miscellaneous dirt and debris on the floors of the plant and in and around the equipment used in preparing the poultry, the presence of flies in the plant, the method of making the abdominal cut which severed several loops of the intestines causing fecal matter to be smeared inside the body cavity, the preparation of poultry in a manner allowing the retention of the lungs and other offal, the existence of unscreened apertures and ill-fitting screen doors, the accrual of waste water, offal, and other filthy substances in and around the plant, the insanitary handling of gibblets, livers, and hearts, ill-fitting doors on restrooms permitting fly traffic from restrooms to the eviscerating rooms, the use of dirty ice in packing the poultry and general carelessness on the part of the defendants and their employees.

DISPOSITION: An order to show cause was issued and served upon the defendants, and on 3-11-57, following pleas of nolo contendere by the defendants to the violations charged, the court fined each defendant \$500.

24087. Frozen poultry and frozen chicken gizzards. (F. D. C. No. 40158. S. Nos. 44-152/3 M.)

QUANTITY: 51 boxes, 1,080 lbs. total, of frozen poultry and 186 boxes, 5,283 lbs. total, of frozen chicken gizzards, at Memphis, Tenn.

SHIPPED: 6-22-56, from Hattiesburg, Miss., by C & S Poultry Co.

LIBELED: 4-10-57, W. Dist. Tenn.

CHARGE: 402 (a) (3)—when shipped, the poultry contained fecal matter and decomposed birds, and the gizzards contained crop material, straw, and feathers; and 402 (a) (5)—the poultry contained diseased birds.

DISPOSITION: 5-5-57. Default—delivered to a public institution for conversion into fertilizer.

24088. Eviscerated turkeys. (F. D. C. No. 40132. S. Nos. 62-603/5 M.)

QUANTITY: 18 crates, 720 lbs. total, at New York, N. Y.

SHIPPED: 11-29-56, from Frankford, Del., by Eagle Poultry Packers, Inc.

LABEL IN PART: (Crate) "Fresh Ice Packed Poultry * * * Tom Turkeys."

LIBELED: 4-12-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained, when shipped, fecal matter and feathers; and 402 (a) (5)—contained diseased turkeys.

DISPOSITION: 5-8-57. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS*

24089. Coriander seeds. (F. D. C. No. 40208. S. No. 62-896 M.)

QUANTITY: 293 bags, at New York, N. Y., in possession of Ware-Pack, Inc.

SHIPPED: 7-16-56, from Casablanca, Morocco.

LIBELED: 5-17-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent pellets; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-5-57. Consent—claimed by Karl H. Landes & E. Balint, Inc., New York, N. Y. Segregated; 16 bags destroyed.

24090. Imitation vanilla flavor. (F. D. C. No. 39673. S. No. 47-886 M.)

QUANTITY: 21 6-oz. btls. at Sussex, N. J.

SHIPPED: 10-4-56, from Middletown, N. Y., by O. C. Prior-King.

LABEL IN PART: "Prior's Imitation Vanilla Flavor. A composition of Vanilla Beans, Vanillin, Coumarin, Sugar, Caramel, Cologne Spirits and Water."

LIBELED: 11-8-56, Dist. N. J.

CHARGE: 402 (a) (2)—when shipped, the article contained an added poisonous and deleterious substance, coumarin, which is unsafe within the meaning of the law, since it is a substance not required in the production of the article and can be avoided by good manufacturing practices.

The libel also alleged that another article, namely "Prof. Black's Honey and Tar Red Pepper and Rum" was misbranded under the provisions of the law applicable to drugs, as reported in notices of judgment on drugs and devices, No. 5216.

DISPOSITION: 12-11-56. Default—destruction.

24091. Mustard bran. (F. D. C. No. 40059. S. No. 41-820 M.)

QUANTITY: 1 100-lb. drum, and 90 100-lb. bags, at Pittsford, N. Y., in possession of L. C. Forman & Sons, Inc.

SHIPPED: Between April and November, 1956, from England.

LIBELED: 3-19-57, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent pellets; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 4-25-57. Default—destruction.

24092. Pickled chiles. (F. D. C. No. 40355. S. Nos. 72-965 M, 72-976 M.)

QUANTITY: 264 cases, 12 12-oz. jars each, at Salt Lake City, Utah.

SHIPPED: 2-15-57 and 5-8-57, from Los Angeles, Calif., by Walker Mfg. Co.

LABEL IN PART: (Jar) "Golden State Prepared Chiles."

RESULTS OF INVESTIGATION: Examination showed that the article contained sodium bisulfite, an added preservative.

LIBELED: 6-25-57, Dist. Utah.

CHARGE: 403 (i) (2)—when shipped, the label of the article failed to bear the common or usual name of each ingredient, since sodium bisulfite had not been declared; and 403 (k)—the label of the article failed to state that it contained an added chemical preservative.

*See also No. 24082.

DISPOSITION: 8-23-57. Consent—claimed by Walker Mfg. Co. 136 cases of the article which were found to be off-color were denatured, and the remainder of the article was relabeled.

24093. Salad mix. (F. D. C. No. 39688. S. No. 27-800 M.)

QUANTITY: 5 cases, 12 1-pt. jars each, at Hialeah, Fla.

SHIPPED: 8-3-56, from Crowley, La., by Tiffe's Fine Food Products.

LABEL IN PART: (Jar) "Tiffe's Wop Salad Mix."

LIBELED: On or about 11-16-56, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 4-26-57. Default—destruction.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE*

24094. Douglas Hi Dry vitamin D₃. (F. D. C. No. 39894. S. No. 60-129 M.)

QUANTITY: 4 ctns., each containing 16½ lbs. at Hammond, Ind.

SHIPPED: 10-27-56, from Evanston, Ill., by the Douglas Chemical Corp.

LABEL IN PART: "Douglas Hi Dry Vitamin D₃ in Stable Dry Form—200,000 International Chick Units Vitamin D₃ Per Gram."

RESULTS OF INVESTIGATION: Analysis showed that the article contained not more than 65 per cent of the declared amount of vitamin D₃.

LIBELED: 12-19-56, N. Dist. Ind.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D₃, had been in part omitted or abstracted from the article when shipped; and 403 (a)—the label statement "200,000 International Chick Units Vitamin D₃ Per Gram" was false and misleading.

DISPOSITION: 5-24-57. Default—destruction.

24095. Vitamin and mineral capsules. (F. D. C. No. 40289. S. No. 28-572 M.)

QUANTITY: 141 100-capsule btls. at San Francisco, Calif.

SHIPPED: 11-7-56, from Bristol, Tenn., by the S. E. Massengill Co.

LABEL IN PART: (Btl.) "Decalbion Forte Blue Tops—Pink Bodies."

RESULTS OF INVESTIGATION: Examination showed that the article contained less than the declared amount of Vitamin B₁.

LIBELED: 5-24-57, N. Dist. Calif.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin B₁, had been in part omitted from the article when shipped; and 403 (j)—the article purported to be and was represented as a food for special dietary uses by reason of its vitamin and mineral content, and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirements of calcium, phosphorous, iron, vitamin A, vitamin D, thiamine hydrochloride, vitamin C, and riboflavin supplied by a specified quantity of the article when consumed during a period of one day.

DISPOSITION: 6-11-57. Default—destruction.

24096. Hadacol. (F. D. C. No. 40178. S. No. 57-399 M.)

QUANTITY: 570 8-oz. btls. at Waynesville, N. C.

*See also No. 24072.

SHIPPED: 6-29-51, from Lafayette, La.

LABEL IN PART: (Btl.) "Hadacol * * * A dietary Supplement * * *
Contains the Vitamin B₁ (Thiamin Hydrochloride) . . . 6 mg."

RESULTS OF INVESTIGATION: Examination showed that the article contained less than the declared amount of Vitamin B₁.

LIBELED: 4-25-57, W. Dist. N. C.

CHARGE: 402 (b) (1)—while held for sale, a valuable constituent, Vitamin B₁, had been in part omitted or abstracted from the article; and 403 (a)—the label statement "Contains the Vitamin B₁ (Thiamin Hydrochloride) . . . 6 mg." was false and misleading.

DISPOSITION: 6-10-57. Default—destruction.

24097. Fruit juice for babies. (F. D. C. No. 39864. S. No. 48-519 M.)

QUANTITY: 222 cases, 24 btls. each, at Chicago, Ill.

SHIPPED: 12-14-56, from New York, N. Y., by Duffy-Mott Co., Inc.

LABEL IN PART: "Clapp's Fruit Juice for Babies, Fortified with Vitamin C to equal that of orange juice * * * Made by a Special Process from oranges and apples, Net Contents: 4 fluid ounces."

LIBELED: 2-4-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained cardboard fiber when shipped; 403 (f)—the name and place of business of the manufacturer and the statement of quantity of contents, required by 403 (e) to appear on the label, were not prominently placed thereon with such conspicuousness (compared with other words, statements, designs, or devices in the labeling) as to render them likely to be read by the ordinary individual under customary conditions of purchase and use; and 403 (j)—the article purported to be and was represented for special dietary use by reason of its vitamin C content and its label failed to bear, as required by regulations, a statement of the proportion of the minimum daily requirement for such vitamin supplied by such article when consumed in a specified quantity during a period of one day.

DISPOSITION: 4-5-57. Default—destruction.

MISCELLANEOUS FOODS

24098. Arti-Rich sticks. (F. D. C. No. 39540. S. No. 50-961 M.)

QUANTITY: 7 cases, 24 4½-oz. pkgs. each, at Los Angeles, Calif.

SHIPPED: 2-21-56, from New York, N. Y.

LIBELED: 8-23-56, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-11-56. Default—destruction.

24099. Coal-tar colors. (F. D. C. No. 37997. S. Nos. 1-795/8 M.)

QUANTITY: 956 16 fl. oz. btls. of "Egg Shade Yellow;" 437 8 fl. oz. btls. of "Blue Color;" 1,048 8 fl. oz. btls. of "Green Color;" and, 1,944 8 fl. oz. btls. of "Red Color" at Norfolk, Va.

SHIPPED: 2-1-55, from Detroit, Mich., by Michlin Chemical Corp.

LABEL IN PART: (Btls.) "Delite Brand Bakers Special Egg Shade Yellow [or "Blue Color" or "Green Color" or "Red Color"] U. S. Certified Food Color."

LIBELED: 5-31-55, E. Dist. Va.; amended 1-10-56.

CHARGE: 402 (a) (3)—(956 btl. lot and 1,944 btl. lot) contained mold when shipped; 402 (c)—(all lots) contained coal-tar colors other than ones from batches certified pursuant to regulations; 403 (a)—(all lots) the label statement "U. S. Certified Food Color" was false and misleading, and, (437 btl. lot and 1,944 btl. lot) the label statement "Dye Content 2.4%" was false and misleading in that the articles in such lots contained less than the declared amount of dye; and 403 (i) (2)—(all lots) the articles were fabricated from two or more ingredients, and their labels failed to bear the common or usual name of each such ingredient.

DISPOSITION: 4-25-56. The Michlin Chemical Corp., claimant, having consented to the entry of a decree, judgment of condemnation was entered and the article was ordered released under bond for conversion into a nonfood product. The claimant failed to comply with the decree with respect to the filing of a bond, and on 1-7-57 an order was entered for the destruction of the articles.

24100. Fire-damaged foods. (F. D. C. No. 39408. S. No. 45-997 M.)

QUANTITY: Approximately 90,000 lbs. of miscellaneous packaged canned fish, evaporated milk, candy, cookies, mincemeat, packaged cereals, canned soups, dried prunes, dessert powders, etc. at Philadelphia, Pa.

SHIPPED: 7-25-56, from East Paterson, N. J., by General Sales Co.

LIBELED: 8-1-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—when shipped, contained decomposed food in some cans, and otherwise unfit for food by reason of rusty cans and fire damage; 403 (e) (1) and (2)—failed to bear labels containing the name and place of business of the manufacturer, packer, or distributor, and an accurate statement of the quantity of contents; and 403 (i) (1) and (2)—failed to bear labels containing the common or usual name of the foods, and the common or usual name of each ingredient in the foods.

DISPOSITION: 8-6-56. Consent—claimed by Geo. M. Ruddy & Co., New York, N. Y., and released for segregation of the good from the unfit. The portion found to be unfit was destroyed.

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¹ (24074). Contains opinions of the courts.
² (24059) Prosecution contested. Contains opinion of the court.
³ (24085) Injunction issued.
⁴ (24086) Contempt of injunction.

	N. J. No.		N. J. No.
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¹ (24074) Contains opinions of the courts.

² (24059) Prosecution contested. Contains opinion of the court.

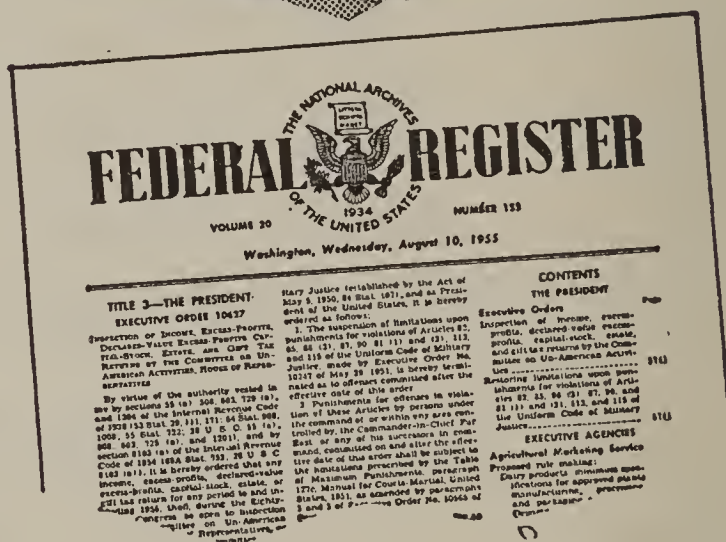
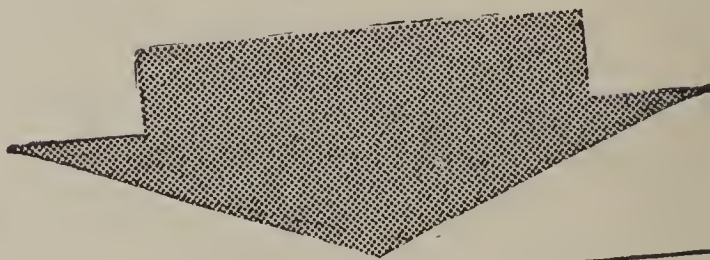
³ (24085) Injunction issued.

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U. S. Department of Health, Education, and Welfare

FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

24101-24200

FOODS

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U. S. DEPARTMENT OF AGRICULTURE

The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default, or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere; and (3) injunction proceedings terminated with the entry of an injunction. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., October 27, 1958.

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 24101-24200**

Adulteration, Section 402 (a) (1), the article contained an added poisonous or deleterious substance which may have rendered it injurious to health; Section 402 (a) (2), the article, in two cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406; and, in four other cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (a) (5), the article was in whole or in part the product of a diseased animal; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; and Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (c), the article was an imitation of another food and its label failed to bear, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated; Section 403 (e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and/or (2) an accurate statement of the quantity of contents; Section 403 (i) (1), the article was not subject to the provisions of Section 403 (g) and its label failed to bear the common or usual name of the food; Section 403 (i) (2), the article was not subject to the provisions of Section 403 (g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section 403 (k), the article contained a preservative and it failed to bear labeling stating that fact.

CEREALS AND CEREAL PRODUCTS**BAKERY PRODUCTS**

24101. Bakery rolls. (F. D. C. No. 40148. S. No. 59-460 M.)

INFORMATION FILED: 6-20-57, Dist. N. J., against Italian Peoples' Bakery, Inc., Trenton, N. J., and Frank Gervasio, secretary-treasurer.

SHIPPED: 4-7-57, from New Jersey to Pennsylvania.

CHARGE: 402 (a) (3)—contained insects, insect parts, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-3-57. Corporation fined \$100 and individual placed on probation for 2 years.

24102. Ry-Krisp crackers. (F. D. C. No. 40548. S. Nos. 71-498/9 M.)

QUANTITY: 597 cases, 12 12-oz. pkgs. each, and 594 cases, 12 8½-oz pkgs. each, at Seattle, Wash.

SHIPPED: 7-19-57, from Minneapolis, Minn., by Ry-Krisp Division, Ralston Purina Co.

LABEL IN PART: (Pkg.) "Family Style * * * Ry-Krisp," and "Ry-Krisp The Smorgasbord Cracker."

LIBELED: 8-7-57, W. Dist. Wash.

CHARGE: 402 (a) (3)—contained insects, insect fragments, and rodent hair fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-4-57. Default—destruction.

24103. Oatcakes. (F. D. C. No. 40240. S. No. 61-179 M.)

QUANTITY: 163 boxes at Barre, Vt.

SHIPPED: 4-12-57, from Arlington, Mass., by Nicoll's Bakeries, Inc.

LABEL IN PART: "Tam O'Shanter * * * Nicoll's Scotch Style Oat Cakes Net Weight 7 Oz."

RESULTS OF INVESTIGATION: Examination showed that the article was shortweight.

LIBELED: 5-3-57, Dist. Vt.

CHARGE: 403 (e) (2)—the article failed to bear a label, when shipped, containing an accurate statement of the quantity of contents.

DISPOSITION: 9-13-57. Default—delivered to a charitable institution.

CORNMEAL

24104. Cornmeal. (F. D. C. No. 40520. S. Nos. 69-292/3 M.)

QUANTITY: 76 pkgs., 10 5-lb. bags each, and 65 100-lb. bags at Philadelphia, Pa., in possession of Gallagher's Warehouses, Inc.

SHIPPED: In December, 1956, and in March, 1957, from Princeton, N. C.

LIBELED: 7-18-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-21-57. Default—destruction.

24105. Cornmeal. (F. D. C. No. 40527. S. No. 65-099 M.)

QUANTITY: 58 50-lb. bags at Newport, Ky.

SHIPPED: 7-5-57, from Medora, Ind.

LIBELED: 7-19-57, E. Dist. Ky.

CHARGE: 402 (a) (3)—contained live insects while held for sale.

DISPOSITION: 9-3-57. Default—disposed of for use as animal feed.

24106. Self-rising cornmeal. (F. D. C. No. 40581. S. No. 57-950 M.)

QUANTITY: 135 100-lb. bags at Jacksonville, Fla., in possession of Jacksonville Milling Co.

SHIPPED: 7-11-57, from Columbus, Ga.

LIBELED: 8-23-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-13-57. Default—destruction.

24107. Self-rising cornmeal. (F. D. C. No. 40562. S. No. 57-950 M.)

QUANTITY: 24 bales, 24 1½-lb. bags each, at Jacksonville, Fla.

SHIPPED: 7-11-57, from Columbus, Ga.

LABEL IN PART: (Bags) "Enriched * * * Eelbeck Self-Rising Meal * * *
Packed by Eelbeck Milling Co. of Fla., Inc. * * * 1½ Lbs. Net."

RESULTS OF INVESTIGATION: The article was shipped in 100-lb. bags, and after receipt by the consignee was repacked into the bags and bales described above.

LIBELED: 8-19-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—repacked under insanitary conditions.

DISPOSITION: 9-10-57. Default—destruction.

FLOUR*

24108. Flour and breakfast food. (F. D. C. No. 39965. S. Nos. 33-483 M, 58-363 M, 58-365 M.)

INFORMATION FILED: 4-30-57, Dist. Kans., against The Blair Milling & Elevator Co., Inc., Atchison, Kans., William W. Blair, president, and Harry A. Marteny, vice president and treasurer.

ALLEGED VIOLATIONS: Between 3-16-56 and 8-10-56, while a quantity of flour was being held for sale after shipment in interstate commerce, the defendants caused the flour to be placed in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the flour being adulterated.

The information alleged also that, on 7-11-56, the defendants caused adulterated breakfast food and flour to be shipped from Kansas to Colorado.

CHARGE: 402 (a) (3)—the articles contained insects, rodent excreta, and rodent hairs; and 402 (a) (4)—a portion of the flour was held under insanitary conditions, and the remainder of the flour and the breakfast food had been prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 6-14-57. Fine of \$150 against each defendant, plus costs.

*See also No. 24130.

24109. Oat flour. (F. D. C. No. 40028. S. No. 66-079 M.)

QUANTITY: 55 100-lb. bags at San Francisco, Calif.

SHIPPED: 8-17-56, from Cedar Rapids, Iowa.

LIBELED: 3-4-57, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained live insect larvae, dead insect larvae, and clumps of insect webbing and insect excreta while held for sale.

DISPOSITION: 3-19-57. Default—destruction.

24110. Flour. (F. D. C. No. 39950. S. No. 53-079 M.)

QUANTITY: 36 25-lb. bags at Woodville, Miss.

SHIPPED: 1-7-57, from Chester, Ill.

LIBELED: 2-19-57, S. Dist. Miss.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 3-23-57. Default—destruction.

24111. Flour, dough improver, and poppyseed. (F. D. C. No. 39875. S. Nos. 37-644/8 M.)

QUANTITY: 37 100-lb. bags of flour, 9 50-lb. bags of dough improver, and 1 110-lb. bag of poppyseed at McKeesport, Pa., in possession of Vienna Baking Co.

SHIPPED: Between 1-26-56 and 12-14-56, from Winona, Minn., Chicago, Ill., and New York, N. Y.

LIBELED: 2-19-57, W. Dist. Pa.

CHARGE: 402 (a) (3)—the flour and poppyseed contained mouse excreta; and 402 (a) (4)—the flour, poppyseed, and dough improver were held under insanitary conditions.

DISPOSITION: 3-19-57. Default—destruction.

24112. Flour. (F. D. C. No. 40225. S. No. 44-323 M.)

QUANTITY: 810 25-lb. bags at Conway, Ark., in possession of Hiegel Wholesale Grocery Co.

SHIPPED: Between 11-1-56 and 11-24-56, from Enid, Okla.

LIBELED: 4-25-57, E. Dist. Ark.

CHARGE: 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-30-57. Consent—claimed by Hiegel Wholesale Grocery Co. Segregated; 440 bags denatured for use as animal feed.

24113. Flour. (F. D. C. No. 40037. S. Nos. 56-439/40 M.)

QUANTITY: 71 100-lb. bags and 238 50-lb. bags at Belgrade, Minn., in possession of Belgrade Flour Mill Co.

SHIPPED: Between 8-31-56 and 9-3-56, from Minot and Valley City, N. Dak.

LIBELED: 3-8-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-15-57. Consent—claimed by Russell-Miller Milling Co., and Belgrade Flour Mill Co. Segregated; 1,411 lbs. denatured.

24114. Flour. (F. D. C. No. 40321. S. Nos. 58-597/600 M.)

QUANTITY: 707 50-lb. bags and 503 25-lb. bags at Denver, Colo., in possession of Associated Grocers of Colorado, Inc.

SHIPPED: Between 3-6-57 and 5-9-57, from Wichita and Liberal, Kans., and Ogden, Utah.

LIBELED: 6-13-57, Dist. Colo.

CHARGE: 402 (a) (3)—contained bird excreta; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-20-57. Consent—claimed by Associated Grocers of Colorado, Inc. Segregated; 204 50-lb. bags and 49 25-lb. bags destroyed.

24115. Flour. (F. D. C. No. 40259. S. Nos. 73-213/4 M.)

QUANTITY: 78 50-lb. bags at Sheridan, Wyo., in possession of Panetta Bros. Dist. Co., Inc.

SHIPPED: 4-20-56 and 11-12-56, from Ogden, Utah.

LIBELED: 5-20-57, Dist. Wyo.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-28-57. Default—destruction.

24116. Flour. (F. D. C. No. 40244. S. No. 65-879 M.)

QUANTITY: 48 50-lb. bags at Redding, Calif.

SHIPPED: 12-21-56, from Ogden, Utah to Sacramento, Calif., and from there to Redding, Calif., on 3-4-57.

RESULTS OF INVESTIGATION: Inspection of Howard Terminals Warehouse where the article was stored at Sacramento, Calif., showed the existence of insanitary conditions.

LIBELED: 5-10-57, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-9-57. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

24117. Unpopped popcorn. (Inj. No. 302.)

COMPLAINT FOR INJUNCTION FILED: 9-4-56, N. Dist. Ohio, against Kenneth W. Huddle t/a Huddle Popcorn Co., Napoleon and Bowling Green, Ohio.

CHARGE: The complaint alleged that the defendant was engaged in the business of processing and distributing unpopped popcorn and had been and was, at the time of filing the complaint, causing to be introduced and delivered for introduction into interstate commerce unpopped popcorn which was adulterated within the meaning of 402 (a) (3) and (4) by reason of the presence in the popcorn of insect and rodent filth, and by reason of preparing, packing, and holding the popcorn under insanitary conditions. It was alleged further that the insanitary conditions resulted from and consisted of the presence of insect excreta, insect debris, rodent excreta, rodent hairs, rodent urine, insect- and rodent-gnawed popcorn, beetles, weevils, other insects, and larva cast skins in and around the defendant's plant and storage facilities; and that the defendant had on hand quantities of unpopped popcorn which were con-

*See also Nos. 24108, 24158, 24161, 24198.

taminated with filth and, which had been prepared, packed, or held under insanitary conditions.

The complaint alleged further that the defendant was well aware that his activities were violative of the Act; that various inspections had been made by the Food and Drug Administration, at which times the insanitary conditions in the plant and storage facilities were called to the defendant's attention; and that despite such warnings, the defendant failed to correct the insanitary conditions and continued to introduce into interstate commerce unpopped popcorn adulterated as described above.

DISPOSITION: On 9-19-56, the court entered a temporary injunction enjoining the defendant against the acts complained of.

On 4-29-57, the defendant having consented, the court entered a decree perpetually enjoining and restraining the defendant from directly or indirectly introducing or causing to be introduced and delivering or causing to be delivered, for introduction into interstate commerce, unpopped popcorn which was adulterated as alleged in the complaint. The decree provided further that the unpopped popcorn being stored by the defendant at Napoleon and Bowling Green, Ohio, be subjected to one of the following treatments by the defendant, namely, (1) destruction, (2) cleaning until the popcorn was fit for human consumption, or (3) denaturing so that the popcorn could not be sold for human consumption; and that whichever treatment the defendant elected to follow, it should be conducted under the supervision of the Food and Drug Administration with the cost of such supervision to be borne by the defendant.

24118. Rice, unshelled almonds, and shelled walnuts (2 seizure actions). F. D. C. Nos. 39676, 39707. S. Nos. 41-319/20 M, 56-388 M, 56-390/1 M, 56-745/6 M.)

QUANTITY: 37 100-lb. bags of rice, 3 100-lb. bags of almonds, and 515 25-lb. ctns. of walnuts at Duluth, Minn.

SHIPPED: Rice, 5-8-56, from Stuttgart, Ark.; almonds, 5-25-56, from Sacramento, Calif.; and walnuts, between 11-8-55 and 12-31-55, from Simi, Calif.

LIBELED: 11-10-56 and 11-30-56, Dist. Minn.

CHARGE: 402 (a) (3)—rice and almonds contained rodent urine, and walnuts contained insects, insect-damaged nuts, and moldy nuts while held for sale; and 402 (a) (4)—the rice and the almonds were held under insanitary conditions.

DISPOSITION: Rice and almonds, 1-31-57. Default—destruction. Walnuts, 1-23-57. Consent—claimed by Globe Walnut Co., Simi, Calif. Segregated; 1,232 pounds destroyed.

24119. Rice. (F. D. C. No. 40036. S. No. 53-228 M.)

QUANTITY: 1,997 100-lb. bags at Houston, Tex.

SHIPPED: 12-3-56, from Kaplan, La., by Imperial Rice Mills, Inc.

LIBELED: 3-6-57, S. Dist. Tex.

CHARGE: 402 (a) (3)—contained insects, insect parts, and insect excreta; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 3-13-57. Consent—claimed by Comet Rice Mills, Houston, Tex. Reconditioned; 1,900 lbs. disposed of for use as animal feed.

24120. Barley. (F. D. C. No. 40055. S. No. 56-569 M.)

QUANTITY: 83,000 lbs. at Hoffman, Minn.

SHIPPED: 3-5-57, from Kief, N. Dak., by Woodworth Elevator Co.

LIBELED: 3-18-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley has been prescribed by regulations.

DISPOSITION: 3-20-57. Consent—claimed by Woodworth Elevator Co. Segregated; 21,000 lbs. destroyed and remainder of the barley decharacterized for use as seed.

24121. Wheat. (F. D. C. Nos. 40025, 40026. S. Nos. 56-815 M, 56-866 M.)

QUANTITY: 91,700 lbs. and 93,000 lbs. in each of two railroad cars at Minneapolis, Minn.

SHIPPED: 2-5-57 and 2-6-57, from Manfred and Ryder, N. Dak., by Osborne-McMillan Elevator Co.

LIBELED: 2-26-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 3-12-57. Consent—claimed by Osborne-McMillan Elevator Co. Segregated; 18,104 lbs. destroyed and remainder of the wheat reconditioned for use as seed.

24122. Wheat. (F. D. C. No. 40045. S. No. 71-458 M.)

QUANTITY: 91,200 lbs. at Minneapolis, Minn.

SHIPPED: 2-26-57, from Reliance, S. Dak., by Shanard Elevator Co.

LIBELED: 3-13-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 3-19-57. Consent—claimed by Shanard Elevator Co., and denatured.

24123. Oats. (F. D. C. No. 40051. S. No. 43-188 M.)

QUANTITY: 1,157 bushels in one railroad car at Anchor, Ill.

SHIPPED: 3-1-57, from St. Louis, Mo.

LIBELED: 3-19-57, S. Dist. Ill.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on oats has been prescribed by regulations.

DISPOSITION: 5-16-57. Consent—claimed by McLean County Feed, Seed & Grain Co. The article was reconditioned by removing the mercurial compound.

24124. Wheat. (F. D. C. No. 40231. S. No. 71-468 M.)

QUANTITY: 90,000 lbs. at Minneapolis, Minn.

SHIPPED: 4-13-57, from Rockham, S. Dak., by Rockham Farmer's Elevator Co.

LIBELED: 5-1-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-13-57. Consent—claimed by Rockham Farmer's Elevator Co.
Reconditioned; 32,720 lbs. denatured for use as animal feed.

24125. Wheat. (F. D. C. No. 40229. S. Nos. 56-454 M, 71-397 M.)

QUANTITY: 89,400 lbs. at Minneapolis, Minn.

SHIPPED: 4-2-57, from Joplin, Mont, by Greely Elevator Co.

LIBELED: 4-29-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and contained, when shipped, a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 5-14-57. Consent—claimed by Greely Elevator Co. Reconditioned; 20,240 lbs. destroyed.

24126. Wheat. (F. D. C. No. 40226. S. No. 55-185 M.)

QUANTITY: 87,600 lbs. at Ottawa Lake, Mich.

SHIPPED: 4-12-57, from Columbia City, Ind., by the Columbia Grain Co.

LIBELED: 4-26-57, E. Dist. Mich.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-27-57. Consent—claimed by Lansing Grain Co., Lansing, Mich., and converted into animal feed.

24127. Wheat. (F. D. C. No. 40224. S. No. 71-822 M.)

QUANTITY: 85,020 lbs. at Minneapolis, Minn.

SHIPPED: 3-23-57, from Carrington, N. Dak., by Carrington Grain Co.

LIBELED: 4-23-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-16-57. Consent—claimed by Carrington Grain Co. Segregated; 11,450 lbs. denatured for use as animal feed.

24128. Wheat. (F. D. C. No. 40194. S. No. 72-251 M.)

QUANTITY: 1 carload at Dalton, Ill.

SHIPPED: 4-29-57, from Vincennes, Ind., by Iglehart Bros.

LIBELED: 5-3-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-15-57. Consent—claimed by Continental Grain Co., Chicago, Ill. and converted into foundry flour for non-human use.

24129. Wheat. (F. D. C. No. 40218. S. Nos. 43-847/49 M.)

QUANTITY: 1 railroad car containing 119,545 lbs., 1 railroad car containing 112,305 lbs., and 1 railroad car containing 88,745 lbs., at Norfolk, Va.

SHIPPED: 5-10-57, from Springfield, Ill., by Dannen Grain & Milling Co.

LIBELED: 5-24-57, E. Dist. Va.

CHARGE: 402 (a) (3)—consisted in whole or in part of a decomposed substance by reason of being sour and heat-damaged when shipped.

DISPOSITION: 5-31-57. Consent—claimed by Dannen Grain & Milling Co., and denatured for use as animal feed.

24130. Rolled oats and corn flour. (F. D. C. No. 39665. S. Nos. 50-410 M, 50-412 M.)

QUANTITY: 17 100-lb. bags of rolled oats and 37 100-lb. bags of corn flour at Manchester, N. H., in possession of Kaulbeck-Earle, Inc.

SHIPPED: Between 5-3-56 and 7-2-56, from Elizabeth, N. J., and Wilkes-Barre, Pa.

LIBELED: 11-6-56, Dist. N. H.

CHARGE: 402 (a) (3)—contained insects and (37-bag lot) rodent hairs; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 12-13-56. Default—destruction.

24131. Wheat cereal. (F. D. C. No. 40519. S. No. 68-492 M.)

QUANTITY: 27 cases, 18 boxes each, at Bronx, N. Y.

SHIPPED: 4-26-57 and 6-10-57, from Moundridge, Kans., by Kansas Milling Co.

LABEL IN PART: (Box) "Schaffer Brand Brownd Whole Wheat Cereal Net Weight 1 lb. 6 oz. * * * Distributed by S. Schaffer Grocery Corp., New York, New York."

LIBELED: 7-23-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects and insect parts when shipped.

DISPOSITION: 8-21-57. Default—destruction.

24132. Cake mix, sweet dough mix, and Donut mix. (F. D. C. No. 40565. S. Nos. 71-548 M, 79-966/7 M.)

QUANTITY: 40 100-lb. bags of cake mix, 14 100-lb. bags of sweet dough mix, and 13 100-lb. bags of Donut mix, at Minneapolis, Minn.

SHIPPED: Between 3-6-57 and 6-6-57, from Ellicott City, Md.

LIBELED: 8-14-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-1-57. Default—consumption by animals.

24133. Batter mix. (F. D. C. No. 40569. S. No. 57-831 M.)

QUANTITY: 6 200-lb. drums at Jacksonville, Fla., in possession of Meyer Fish & Produce Co.

SHIPPED: Between 4-15-57 and 5-13-57, from St. Louis, Mo.

LIBELED: 8-16-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects and moldy batter mix; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-6-57. Default—destruction.

DAIRY PRODUCTS**BUTTER**

24134. Butter. (F. D. C. No. 40489. S. No. 63-763 M.)

QUANTITY: 10 100-lb. boxes at Fort Collins, Colo.

SHIPPED: The Dairy Gold Foods Co. of Cheyenne shipped a quantity of decomposed cream from Cheyenne, Wyo., to Fort Collins, Colo., on 5-4-57.

RESULTS OF INVESTIGATION: The above described shipment of decomposed cream was used in the manufacture of the butter which was seized.

LIBELED: 5-13-57, Dist. Colo.

CHARGE: 402 (a) (3)—contained a decomposed substance by reason of the presence of excessive water-insoluble acids in the butter while held for sale.

DISPOSITION: 6-20-57. Consent—claimed by Dairy Gold Foods Co. of Colorado, and disposed of to a rendering company.

24135. Butter. (F. D. C. No. 40491. S. No. 68-306 M.)

QUANTITY: 30 64-lb. ctns. at Bronx, N. Y.

SHIPPED: 5-16-57, from Galeton, Pa., by Sunnysdale Farms, Inc.

LIBELED: 6-14-57, S. Dist. N. Y.

CHARGE: 402 (b) (2)—the article was below the legal standard for milk fat when shipped.

DISPOSITION: 7-11-57. Consent—claimed by Sunnysdale Farms, Inc., and used in the manufacture of ice cream mix.

24136. Butter (2 seizure actions). (F. D. C. No. 40493. S. Nos. 72-597 M, 72-860 M.)

QUANTITY: 16 boxes of Churn No. 155, 13 boxes of Churn No. 158, 14 boxes of Churn No. 164, 16 boxes of Churn No. 169, and 15 boxes of Churn No. 173 at Chicago, Ill. Each box contained 64 or 65 lbs.

SHIPPED: 6-19-57, from Shawnee, Okla., by Harp's Green Valley Farms.

LIBELED: 7-3-57 and 7-11-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—(Churn Nos. 169 and 173), the article contained decomposed cream when shipped; and 402 (b) (2)—(Churn Nos. 155, 158, and 164), an article containing less than 80 percent by weight of milk fat had been substituted for butter when shipped.

DISPOSITION: 7-29-57. Consent—claimed by Fox Gold Foods, Division Howard Golz & Company, Chicago, Ill. The article in Churn No. 169 and 173 was converted into butter oil, and the article in the other churns was reworked to bring it into compliance with the law.

CHEESE

24137. Cheese. (F. D. C. No. 40542. S. No. 76-036 M.)

QUANTITY: 26 65-lb. cases at Medford, Mass., in possession of Dragone Cheese Mfg. Co., Inc.

SHIPPED: 7-16-57 and 7-18-57, from Wells River, Vt.

RESULTS OF INVESTIGATION: The article shipped was cheese curds in drums. After receipt, the consignee added water to the article and molded, cooled, and set it in brine for 3 hours before packing. Inspection of the Dragone Cheese Mfg. Co., showed the existence of insanitary conditions which would result in contamination of the article.

LIBELED: 8-1-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained insect parts; and 402 (a) (4)—prepared under insanitary conditions while held for sale.

DISPOSITION: 9-16-57. Default—destruction.

EGGS

24138. Frozen egg products (4 seizure actions). (F. D. C. Nos. 40384, 40391, 40395, 40534. S. Nos. 6-373 M, 6-375/6 M, 6-378 M, 69-818 M, 82-767/8 M.)

QUANTITY: 7,597 30-lb. cans at Zanesville, Ohio, and 500 30-lb. cans at Philadelphia, Pa.

SHIPPED: (7,597 cans), between 3-6-57 and 7-2-57, from Greensburg, Ind., by Ballas Egg Products Co., Inc., and (500 cans), 7-11-57, from Zanesville, Ohio, by Zanesville Cold Storage Co.

LABEL IN PART: "Frozen Whole Eggs," "Frozen Whole Eggs B-M-C," "Whole Eggs * * * Frozen Whole," "Technical Whites not for human consumption," "Tanner-Inedible not for human consumption," "Frozen Bakers Special Blend Special Formula contains whole egg, egg yolk, corn syrup, ABD salt BMC packed for Bakers Merchandise Co., Philadelphia, Pa."

LIBELED: 7-18-57 and 7-29-57, S. Dist. Ohio and E. Dist. Pa.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: Between 7-24-57 and 8-2-57. Consent—claimed by Ballas Egg Products Co., Inc. The unfit portions of the products were segregated, dried, and denatured. The total weight of the denatured products was 10,667 lbs. of dried eggs and 700 lbs. of dried technical albumen.

24139. Frozen eggs. (F. D. C. No. 40547. S. No. 68-835 M.)

QUANTITY: 400 30-lb. cans at Brooklyn, N. Y.

SHIPPED: 6-29-57, from Miami, Fla., by Arthur Redmond Co., Division of Dexter Bishop Co., Inc.

LIBELED: 8-12-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 9-19-57. Consent—claimed by Dexter Bishop Co., Inc. Segregated; 21 30-lb. cans denatured.

24140. Frozen eggs. (F. D. C. No. 40627. S. No. 78-703 M.)

QUANTITY: 419 cans at New York, N. Y.

SHIPPED: 8-15-57, from Zanesville, Ohio, by Ballas Products Co., Inc.

LABEL IN PART: "Salt Whole Eggs * * * 30 lbs. Net."

LIBELED: 9-23-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 10-10-57. Consent—claimed by Ballas Frozen Foods, Inc., New York, N. Y. Segregated; 21 30-lb. cans destroyed.

FISH AND SHELLFISH

24141. Frozen whitefish. (F. D. C. No. 39885. S. No. 56-218 M.)

QUANTITY: 9 60-lb. boxes at Chicago, Ill.

SHIPPED: 2-12-57, from Winnipeg, Canada, by Matt Bodner.

LABEL IN PART: "Clarke Fisheries, Meadow Lake Sask 7134."

LIBELED: 3-4-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 4-2-57. Default—destruction.

24142. Frozen eviscerated ciscoes and chubs. (F. D. C. No. 40233. S. Nos. 64-841/2 M.)

QUANTITY: 54 100-lb. boxes of ciscoes and 40 100-lb. boxes of chubs at Buffalo, N. Y.

SHIPPED: Between 6-1-56 and 11-1-56, from Hurkett, Ontario, Canada, by M. Anderson, L. W. Nutall, and T. Chevrier.

LIBELED: 4-29-57, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 5-7-57. Consent—claimed by Sol Lenzner Corp., Buffalo, N. Y. Segregation was unsuccessful, and the entire amount seized was subsequently destroyed.

24143. Frozen walleyed pike fillets. (F. D. C. No. 40084. S. Nos. 33-606 M, 33-608 M.)

QUANTITY: 53 boxes at Kansas City, Kans.

SHIPPED: 1-3-57, from Chicago, Ill., by Pick-Shapiro Fisheries, Inc.

LABEL IN PART: "Alaska Fisheries, Ltd., Edmonton, Alberta, Bulk Wall-eyed Pike, Net Wt. 15 Lbs. Product of Canada."

RESULTS OF INVESTIGATION: Examination showed that the article contained added water in the form of ice, and that the weight of the thawed fish was approximately 13.02 per cent less than 15 pounds.

LIBELED: 4-19-57, Dist. Kans.

CHARGE: 402 (b) (2)—when shipped, water in the form of ice had been substituted in part for fish; 402 (b) (4)—water in the form of ice had been added to the article and packed with it so as to increase its bulk or weight and reduce its quality; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 6-21-57. Consent—claimed by Pick-Shapiro Fisheries, Inc., and relabeled to show a net weight of 13 lbs. per box, instead of 15 lbs.

24144. Skinless mullet fillets. (F. D. C. No. 40189. S. Nos. 62-930/1 M.)

QUANTITY: 789 60-lb. ctns. at Newark, N. J.

SHIPPED: 3-16-57, from Winnipeg, Canada, by J. Kosloff Fish Dist.

LIBELED: 4-30-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 6-25-57. Consent—claimed by Booth Fisheries Corp., Chicago, Ill. Segregated; 26 ctns. destroyed and 759 ctns. converted to animal by-products.

24145. Frozen whitefish. (F. D. C. No. 40032. S. No. 48-971 M.)

QUANTITY: 5,928 lbs. in 55 boxes at Green Bay, Wis.

SHIPPED: 1-9-57, from Winnipeg, Manitoba, Canada, by Booth Fisheries Canadian Co., Ltd.

LABEL IN PART: "Herb Lake DSD Whites."

LIBELED: 2-28-57, E. Dist. Wis.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 7-19-57. Consent—claimed by Booth Fisheries Corp., Chicago, Ill. Segregated; 3,145 lbs. disposed of for use as animal feed.

24146. Canned brisling sardines. (F. D. C. No. 40251. S. No. 71-070 M.)

QUANTITY: 10 cases, 100 3¾-oz. tins each, at Minneapolis, Minn.

SHIPPED: 3-28-57, from Chicago, Ill.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 5-15-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-26-57. Default—destruction.

24147. Frozen breaded shrimp. (F. D. C. No. 40039. S. No. 44-124 M.)

QUANTITY: 38 cases, 12 10-oz. ctns. each, at Memphis, Tenn.

SHIPPED: 12-11-56, from Miami, Fla., by Gulf Stream Quick Frozen Foods, Inc.

LABEL IN PART: (Ctn.) "Jumbo Breaded Fantail Shrimp Quick Frozen."

LIBELED: 3-6-57, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained decomposed shrimp when shipped.

DISPOSITION: 4-8-57. Default—destruction.

24148. Frozen peeled shrimp and frozen shrimp pieces. (F. D. C. No. 40223. S. Nos. 71-237 M, 71-239 M, 71-248 M, 71-249 M.)

QUANTITY: 59 cases, 10 5-lb. ctns. each, and 4 5-lb. ctns. of frozen peeled shrimp; and 99 cases, 12 3-lb. ctns. each, and 4 3-lb. ctns. of frozen shrimp pieces, at Duluth, Minn.

SHIPPED: Between 10-26-56 and 12-8-56, from Corpus Christi, Tex., by Nueces Provision Co.

LIBELED: 4-19-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained decomposed shrimp and shrimp pieces when shipped.

DISPOSITION: 5-15-57. Consent—claimed by Chun King Sales, Inc., Duluth, Minn. Segregated; 1,792 lbs. made into fertilizer.

24149. Frozen oysters. (F. D. C. No. 40052. S. Nos. 30-889/90 M.)

QUANTITY: 47 cases, 21 cans each, at Louisville, Ky.

SHIPPED: 1-6-57, from Baltimore, Md., by Seacoast Oyster Co.

LABEL IN PART: (Can) "Pride of Chesapeake Bay, Lovely Lady, Frozen Oysters contents 12 oz."

LIBELED: 3-15-57, W. Dist. Ky.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 5-29-57 and 7-3-57. Default—delivered to a charitable institution for its use.

24150. Canned shrimp. (F. D. C. No. 40035. S. No. 54-792 M.)

QUANTITY: 34 cases, 24 13¼-oz. cans each, at Portland, Oreg.

SHIPPED: 8-13-56, from Oakland, Calif.

LIBELED: On or about 4-3-57, Dist. Oreg.

CHARGE: 403 (a) (3)—contained decomposed shrimp while held for sale.

DISPOSITION: 6-26-57. Default—destruction.

24151. Canned oysters. (F. D. C. No. 40252. S. No. 53-182 M.)

QUANTITY: 844 cases, 24 4⅔-oz. cans each, at New Orleans, La.

SHIPPED: 4-22-57, from Biloxi, Miss., by Aughinbaugh Canning Co.

LIBELED: 5-13-57, E. Dist. La.

CHARGE: 402 (a) (3)—contained decomposed oysters when shipped.

DISPOSITION: 8-15-57. Consent—claimed by Aughinbaugh Canning Co. Segregated; 183 cases destroyed.

FRUITS AND VEGETABLES

CANNED FRUIT

24152. Canned crushed bananas. (F. D. C. No. 40558. S. No. 72-461 M.)

QUANTITY: 46 cases, 6 cans each, at Chicago, Ill.

SHIPPED: 3-19-57, from New York, N. Y., by Robert B. Adelman.

LABEL IN PART: (Can) "Pure Crushed Bananas * * * Bananza Brand
* * * Product of Costa Rica Net Weight 7 Lbs. * * * Packed by Intercontinental Packing Co., Ltd. Peurto Limon Costa Rica."

LIBELED: 8-12-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 9-6-57. Default—destruction.

24153. Canned crushed bananas. (F. D. C. No. 40638. S. No. 78-765 M.)

QUANTITY: 23 cases, 6 7-lb. cans each, at Brooklyn, N. Y.

SHIPPED: 5-13-57, from Costa Rica.

LIBELED: 9-12-57, E. Dist N. Y.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 10-15-57. Default—destruction.

DRIED FRUIT

24154. Raisins. (F. D. C. No. 40630. S. No. 81-333 M.)

QUANTITY: 14 30-lb. ctns. at Baltimore, Md.

SHIPPED: 2-28-57, from Fresno, Calif.

LIBELED: 9-5-57, Dist. Md.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-9-57. Default—consumption by animals.

MISCELLANEOUS FRUIT PRODUCTS

24155. Grapefruit juice. (F. D. C. No. 40403. S. No. 74-210 M.)

QUANTITY: 12 cases, 48 6-oz. cans each, at Lewiston, Idaho.

SHIPPED: 6-25-56, from Winter Haven, Fla.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 8-6-57, Dist. Idaho.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 9-4-57. Default—destruction.

24156. Concentrated grape juice and orange juice. (F. D. C. No. 40549. S. Nos. 78-414/5 M.)

QUANTITY: 74 jugs of grape juice and 70 jugs of orange juice at Winfield, Kans.

SHIPPED: 5-13-57, from St. Joseph, Mo., by Dubl-Rich Products Co.

LABEL IN PART: "Dubl-rich * * * Concord Grape Juice One Gallon Dubl-rich brand is a sweetened grape juice made from the juice of pure sun ripened Concord Grapes" and "Dubl-Rich * * * California Orange Juice * * * One Gallon Dubl-rich brand is a sweetened orange juice concentrate made from the juice of pure sun ripened California Oranges."

LIBELED: 8-8-57, Dist. Kans.

CHARGE: Grape juice, 402 (b) (1)—a valuable constituent, grape juice, had been in whole or in part omitted from the article when shipped; 402 (b) (2)—an artificially colored and flavored citric acid solution had been substituted for grape juice; 403 (a)—the label statements "Dubl-rich brand * * * Concord Grape Juice * * * is a sweetened grape juice made from the juice of pure sun ripened Concord Grapes. For a delicious grape drink, use one part dubl-rich brand Grape Juice to five parts water * * * dubl-rich * * * California Lemon Juice * * * dubl-rich" were false and misleading as applied to an article which was an artificially colored and flavored citric acid solution, containing approximately 2 percent grape juice; and 403 (c)—the article was an imitation grape juice and its label failed to bear the word "Imitation" and, immediately thereafter, the name of the food imitated.

Orange juice, 402 (b) (1)—a valuable constituent, orange juice, had been in whole or in part omitted from the article when shipped; 402 (b) (2)—an artificially colored and flavored citric acid solution had been substituted for orange juice; 403 (a)—the label statements "Dubl-rich brand * * * California Orange Juice * * * orange juice concentrate made from the juice of pure sun ripened California Oranges. For a delicious orange drink use one part dubl-rich brand orange juice to five parts water * * * dubl-rich * * * California Lemon Juice * * * dubl-rich Concord Grape Juice" were false and misleading as applied to the article which contained approximately 25 percent orange juice with citric acid, orange oil, and artificial color added; and 403 (c)—the article was an imitation orange juice and its label failed to bear the word "Imitation" and, immediately thereafter, the name of the food imitated.

DISPOSITION: 9-18-57 and 10-7-57. Default—delivered to a charitable institution for its use.

24157. Canned grapefruit and orange juice. (F. D. C. No. 40590. S. No. 74-231 M.)

QUANTITY: 467 cases, 12 46-oz. cans each, at Seattle, Wash.

SHIPPED: 6-19-57, from Forest Park, Ga.

RESULTS OF INVESTIGATION: Examination showed that the article was distress merchandise which had been damaged in transit.

LIBELED: 8-26-57, W. Dist. Wash.

CHARGE: 403 (e) (1)—the label of the article, while in interstate commerce and while held for sale, failed to bear the name and place of business of the manufacturer, packer, or distributor; 403 (e) (2)—the label of the article failed to bear an accurate statement of the quantity of contents; 403 (i) (1)—the article failed to bear a label containing the common or usual name of the article; and 403 (i) (2)—the article failed to bear a label containing the common or usual name of each ingredient.

DISPOSITION: 10-4-57. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS

24158. Pinto beans and unpopped popcorn. (F. D. C. No. 39989. S. Nos. 33-331 M, 33-701 M.)

INFORMATION FILED: 4-25-57, Dist. Kans., against Western Grocer, a Division of Consolidated Foods Corp., Manhattan, Kans., and Howard O. Ludden, manager.

ALLEGED VIOLATION: Between July 1955 and November 5, 1956, while quantities of pinto beans and popcorn were being held for sale after shipment in interstate commerce, the defendants caused the articles to be placed in a building that was accessible to rodents and insects and to be exposed to contamination by rodents and insects, which acts resulted in the articles being adulterated.

CHARGE: 402 (a) (3)—the pinto beans contained rodent urine, rodent hair fragments, insect larvae and cast skins, and the popcorn contained rodent excreta; and 402 (a) (4)—the articles were held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 5-17-57. Fine of \$500 plus costs against the corporation. No sentence was imposed against the individual.

24159. Canned peas. (F. D. C. No. 40423. S. No. 71-450 M.)

INFORMATION FILED: 8-1-57, W. Dist. Wis., against the Sampson Canning Co., a corporation, Wisconsin Rapids, Wis.

SHIPPED: 3-2-56, from Wisconsin to Minnesota.

LABEL IN PART: (Can) "Contents 1 Lb. 4 oz. Sampson's 2 (or 3) Sieve Al-sweets Sweet Peas Packed by Sampson Canning Co. Wisconsin Rapids, Wis."

CHARGE: 402 (a) (3)—contained decomposed peas when shipped; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents since the cans of the article contained less than the declared weight.

PLEA: Guilty.

DISPOSITION: 8-28-57. \$101 fine.

24160. Frozen peas, frozen mixed vegetables, and frozen whole-kernel corn. (F. D. C. No. 40564. S. Nos. 64-396/8 M.)

QUANTITY: 1,900 cases, 24 10-oz. ctns. each, of frozen peas, 300 cases, 24 10-oz. ctns. each, of frozen mixed vegetables, and 200 cases, 24 10-oz. ctns. each, of frozen whole-kernel corn at Buffalo, N. Y.

SHIPPED: 7-8-57, from Minneapolis, Minn.

RESULTS OF INVESTIGATION: Investigation showed that the railroad car in which the products were transported was partially unloaded at Youngstown, Ohio, then forwarded to Buffalo without re-icing after being on a siding for 4 days, and that after leaving Youngstown it was re-iced enroute to Buffalo. On arrival at Buffalo, the contents of the car were found to be partially thawed and were refused by the consignee.

LIBELED: 8-13-57, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 9-16-57. Default—destruction.

24161. Chili beans and rice. (F. D. C. No. 40287. S. Nos. 71-486 M, 79-784 M.)

QUANTITY: 7 cases, 12 1-lb. 5-oz. bags each, of chili beans and 32 100-lb. bags of rice at St. Paul, Minn.

SHIPPED: 11-27-53, from Pittsburgh, Pa., and 11-13-56, from Stuttgart, Ark.

LIBELED: 7-1-57, Dist. Minn.

CHARGE: 402 (a) (3)—the chili beans contained insects, and the rice contained rodent urine while held for sale.

DISPOSITION: (Rice), 8-5-57. Consent—claimed by Security Wholesale Grocery Co., Inc., St. Paul, Minn. Segregated; 1,200 lbs. destroyed. (Chili beans), 8-20-57. Default—destruction.

24162. Canned butter beans. (F. D. C. No. 40230. S. Nos. 71-179 M, 71-430 M.)

QUANTITY: 19 cases, each containing 24 1-lb. cans, and 12 1-lb. cans at Minneapolis, Minn.

SHIPPED: 1-24-57, from Hoopeston, Ill.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing active decomposition.

LIBELED: 5-17-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 7-3-57. Default—destruction.

24163. Mung beans. (F. D. C. No. 40400. S. No. 51-352 M.)

QUANTITY: 35 100-lb. bags at Los Angeles, Calif.

SHIPPED: From Thailand.

LIBELED: 8-7-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insects and insect-tunneled beans while held for sale.

DISPOSITION: 9-12-57. Consent—claimed by Doung D. Yee, t/a Main On Co., Los Angeles, Calif. Segregated; 287 lbs. destroyed.

24164. Mung beans. (F. D. C. No. 40232. S. No. 24-398 M.)

QUANTITY: 75 113-lb. bags at Terminal Island, Calif.

SHIPPED: 1-25-57, from Bangkok, Thailand, by Tong Hua Loong.

LIBELED: 4-29-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained moldy beans when shipped.

DISPOSITION: 5-23-57. Default—destruction.

24165. Canned pork and beans. (F. D. C. No. 40414. S. No. 44-661 M.)

QUANTITY: 80 cases, 48 cans each, and 450 cans at St. Louis, Mo.

SHIPPED: 4-22-57, from Belleville, Ill., by Tony Bonnelle Co., Inc.

LABEL IN PART: (Can) "Red Label * * * Contents 15½ oz. * * * Pork and Beans in Tomato Sauce."

LIBELED: 8-13-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—the article was unfit for food by reason of abnormal flavor and odor when shipped.

DISPOSITION: 10-1-57. Default—destruction.

24166. Dried beans. (F. D. C. No. 40277. S. No. 44-339 M.)

QUANTITY: 262 100-lb. bags at Alma, Ark., in possession of Alma Canning Co.

SHIPPED: 3-26-57 and 3-29-57, from Mineola, Tex.

LIBELED: 6-12-57, W. Dist. Ark.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-21-57. Consent—claimed by Alma Canning Co. Segregated; 12 bags destroyed and 3,500 lbs. denatured for use as seed.

24167. Dried lima beans. (F. D. C. No. 40184. S. Nos. 58-214/5 M.)

QUANTITY: 20 100-lb. bags at Oklahoma City, Okla., in possession of Ozmun & Co.

SHIPPED: 2-16-54 and 3-4-57, from Oxnard, Calif., and Sterling, Colo.

LIBELED: 4-29-57, W. Dist. Okla.

CHARGE: 402 (a) (3)—contained rodent excreta and rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-12-57. Default—delivered to a Federal institution for use as animal feed.

24168. Dried black-eyed peas, pinto beans, and lima beans. (F. D. C. No. 40320. S. Nos. 44-330/2 M.)

QUANTITY: 28 100-lb. bags of black-eyed peas, 23 100-lb. bags of pinto beans, and 5 100-lb. bags of lima beans at Little Rock, Ark., in possession of Goff Wholesale Grocery Co.

SHIPPED: Between 6-12-56 and 1-28-57, from Denver, Colo.

LIBELED: 6-12-57, E. Dist. Ark.

CHARGE: 402 (a) (3)—contained rodent urine and rodent pellets; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-17-57. Consent—claimed by Goff Wholesale Grocery Co. Segregated; 36 100-lb. bags denatured for use as animal feed.

24169. Potatoes. (F. D. C. No. 40027. S. Nos. 43-389/90 M.)

QUANTITY: 1,940 25-lb. bags at St. Louis, Mo.

SHIPPED: 2-7-57, from Burlington, Iowa.

LIBELED: 2-25-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—was unfit for food because it contained an unidentified chemical while in interstate commerce.

DISPOSITION: 3-25-57. Default—destruction.

24170. Potato chips. (F. D. C. No. 39997. S. Nos. 58-765 M, 58-768 M.)

INFORMATION FILED: 4-4-57, Dist. Colo., against Robert R. Cox, t/a Valley Chip & Supply Co., La Junta, Colo.

SHIPPED: 8-30-56 and 9-6-56, from Colorado to Kansas.

LABEL IN PART: (Bag) "Bob's Potato Chips Net Weight 5 Ozs. [or "7 Oz."]."

CHARGE: 403 (e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents since the bags of the article contained less than the declared weight.

PLEA: Guilty.

DISPOSITION: 9-20-57. \$400 fine.

24171. Canned mushrooms. (F. D. C. No. 40246. S. No. 41-412 M.)

QUANTITY: 6 cases, 24 8-oz. cans each, at Little Rock, Ark.

SHIPPED: 3-4-57, from Houston, Tex., by Catz American Co.

LABEL IN PART: (Can) "Royalty Brand Mushrooms * * * Pieces and Stems Product of France."

LIBELED: 5-15-57, E. Dist. Ark.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 6-14-57. Default—destruction.

24172. Canned mushrooms. (F. D. C. No. 40228. S. No. 43-668 M.)

QUANTITY: 22 cases, 24 8-oz. cans each, at Memphis, Tenn.

SHIPPED: 3-20-57, from Houston, Tex., by Catz American Co.

LABEL IN PART: (Can) "Royalty Brand Mushrooms * * * Pieces and Stems Product of France."

LIBELED: 4-24-57, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 5-24-57. Default—destruction.

24173. Pickled vegetables. (F. D. C. No. 40044. S. No. 43-379 M.)

QUANTITY: 208 24-jar cases, at St. Louis, Mo.

SHIPPED: 1-4-57, from Santa Clara, Calif., by California Pacific Food Products.

LABEL IN PART: (Jar) "Haase's Imported Italian Peperoncini in White Vinegar."

LIBELED: 3-11-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained cat hairs, rodent hairs, and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 4-4-57. Default—destruction.

24174. Pickled cherry peppers. (F. D. C. No. 40641. S. No. 69-098 M.)

QUANTITY: 198 cases, 12 1-qt. jars each, at Brooklyn, N. Y.

SHIPPED: 8-15-57, from Landisville, N. J., by Pat Vencia.

LIBELED: 9-16-57, E. Dist N. Y.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 10-15-57. Default—destruction.

24175. Peppers in vinegar. (F. D. C. No. 40393. S. No. 44-050 M.)

QUANTITY: 80 cases, 6 cans each, at St. Louis, Mo.

SHIPPED: 12-15-55, from New York, N. Y., by International Expeditors, Inc.

RESULTS OF INVESTIGATION: Examination showed that the article was undergoing chemical decomposition.

LIBELED: 7-30-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 8-27-57. Default—destruction.

TOMATOES

24176. Canned tomatoes. (F. D. C. No. 40407. S. Nos. 78-433/4 M.)

QUANTITY: 20 cases, 48 10-oz. cans each, at Rogers, Ark.

SHIPPED: 6-17-57 and 7-10-57, from Muskogee, Okla., by Griffin Grocery Co.

LABEL IN PART: (Can) "Raider Tomatoes."

LIBELED: 8-7-57, W. Dist. Ark.

CHARGE: 402 (a) (3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 1-15-58. Default—destruction.

24177. Canned green Spanish tomatoes. (F. D. C. No. 40512. S. No. 74-896 M.)

QUANTITY: 48 cases, 24 cans each, at Chicago, Ill.

SHIPPED: 5-28-57, from Los Angeles, Calif., by La Victoria Products Co.

LABEL IN PART: (Can) "La Victoria * * * Tomatillo Entero Whole Green Spanish Tomatoes * * * Contents 10 Oz. Avoir * * *."

LIBELED: 7-10-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects and moldy tomatoes when shipped.

DISPOSITION: 8-8-57. Default—destruction.

NUTS*

24178. Unshelled pecans. (F. D. C. No. 39887. S. No. 61-011 M.)

QUANTITY: 200 50-lb. bags at Boston, Mass.

SHIPPED: 12-4-56, from Mobile, Ala., by B. C. Tanner Pecan Co.

LABEL IN PART: "50 Lbs. Net Shamrock Brand Fancy Papershell Pecans."

LIBELED: 3-5-57, Dist. Mass.

CHARGE: 402 (c)—when shipped, the article bore or contained Bismark Brown, a coal-tar color other than one from a batch that had been certified in accordance with the regulations.

DISPOSITION: 3-26-57. Consent—claimed by B. C. Tanner Pecan Co. The nuts were reconditioned by burnishing and redying with certified colors, and by removing and destroying the cracked nuts amounting to 1,100 pounds.

*See also No. 24118.

24179. Unshelled pecans. (F. D. C. No. 40034. S. No. 51-304 M.)

QUANTITY: 3 100-lb. bags at Los Angeles, Calif.

SHIPPED: 11-17-56, from Fairhope, Ala., by Schermer Pecan Co.

LIBELED: 3-4-57, S. Dist. Calif.

CHARGE: 402 (c)—when shipped, the article bore or contained Bismark Brown, a coal-tar color other than one from a batch that had been certified in accordance with regulations.

DISPOSITION: 3-28-57. Default—destruction.

24180. Unshelled pecans. (F. D. C. No. 40040. S. No. 28-963 M.)

QUANTITY: 133 100-lb. bags at Modesto, Calif.

SHIPPED: 11-19-56, from Mobile, Ala., by B. C. Tanner Pecan Co.

LABEL IN PART: "Shamrock Brand Fancy Papershell Pecans."

RESULTS OF INVESTIGATION: Examination showed that the article contained Bismark Brown, an uncertified coal-tar color.

LIBELED: 3-6-57, N. Dist. Calif.

CHARGE: 402 (c)—the article, when shipped, contained Bismark Brown, a coal-tar color other than one from a batch that had been certified in accordance with regulations.

DISPOSITION: 4-2-57. Consent—claimed by B. C. Tanner Pecan Co. The nuts were reconditioned by burnishing and redying with certified colors, and by removing and destroying the cracked nuts amounting to 400 pounds.

24181. Shelled pecans and filberts. (F. D. C. No. 40561. S. Nos. 83-662/6 M.)

QUANTITY: 7 30-lb. cases and 8 5-lb. cases of shelled pecans, and 2 25-lb. cases of shelled filberts, at Rock Island, Ill.

SHIPPED: Between 3-12-57 and 6-4-57, from Vicksburg, Miss., Waycross, Ga., and New York, N. Y.

LIBELED: 8-14-57, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-6-57. Default—destruction.

POULTRY

24182. Dressed poultry. (F. D. C. No. 40206. S. No. 62-608 M.)

QUANTITY: 2 crates, 140 lbs. total, at Brooklyn, N. Y.

SHIPPED: 4-23-57, from Valley View, Pa., by Beachwood Farms.

LIBELED: 5-15-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained fecal-contaminated and decomposed birds when shipped; and 402 (a) (5)—contained diseased birds.

DISPOSITION: 6-13-57. Default—destruction.

24183. Dressed poultry. (F. D. C. No. 40304. S. No. 62-611M.)

QUANTITY: 10 crates containing a total of 750 lbs. at Newark, N. J.

SHIPPED: 5-20-57, by P & L Poultry Co., Inc., from Stockton, Md.

LIBELED: 6-5-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter when shipped; and 402 (a) (5)—contained diseased birds.

DISPOSITION: 7-23-57. Default—destruction.

24184. Frozen dressed poultry. (F. D. C. No. 40570. S. No. 69-393 M.)

QUANTITY: 8 crates containing a total of 465 lbs. at Philadelphia, Pa.

SHIPPED: 7-31-57, from Charlotte, N. C., by Hanline Poultry Co.

LIBELED: 8-16-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—when shipped, contained birds contaminated with fecal matter and extensively bruised birds; and 402 (a) (5)—contained diseased birds.

DISPOSITION: 9-18-57 and 9-25-57. Default—one crate of the article was delivered to the Food and Drug Administration and the remainder was destroyed.

24185. Eviscerated poultry. (F. D. C. No. 40175. S. No. 61-107 M.)

QUANTITY: 14 70-lb. boxes and 1 20-lb. box at Fitchburg, Mass.

SHIPPED: 4-10-57, from Merrimack, N. H., by Gate City Poultry Co., Inc.

LABEL IN PART: "Treated with Diethylstilbesterol * * * Drawn."

RESULTS OF INVESTIGATION: Examination showed the presence of pellets of added diethylstilbesterol in the edible portions of the birds.

LIBELED: 4-24-57, Dist. Mass.

CHARGE: 402 (a) (1)—contained, when shipped, an added poisonous or deleterious substance, diethylstilbesterol, which may render the article injurious to health.

DISPOSITION: 5-15-57. Consent—claimed by Gate City Poultry Co., Inc. Segregated; 50 lbs. destroyed.

24186. Eviscerated poultry. (F. D. C. No. 40210. S. No. 62-610 M.)

QUANTITY: 350 crates containing a total of 21,671 lbs. at New York, N. Y.

SHIPPED: On or about 5-1-57, from Herndon, Pa., by Mandata Poultry Co.

LIBELED: 5-20-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter and crop material when shipped.

DISPOSITION: 6-12-57. Consent—claimed by Mandata Poultry Co. Segregated; 67 lbs. destroyed.

24187. Eviscerated poultry. (F. D. C. No. 40388. S. No. 79-788 M.)

QUANTITY: 146 crates at Minneapolis, Minn.

SHIPPED: 7-10-57, from Canton, Ga., by Gold Kist Poultry Growers, Div. of Cotton Producers Assn.

LABEL IN PART: "Canton's Choice Chicken Grade A Fresh Ice Packed * * * Acronize."

LIBELED: 7-22-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained fecal material when shipped.

DISPOSITION: 8-13-57. Consent—claimed by the shipper. The article was brought into compliance with the law by thawing and thoroughly washing the poultry.

24188. Eviscerated poultry. (F. D. C. No. 40538. S. No. 76-919 M.)

QUANTITY: 14 crates, 27 birds each, at Greenville, S. C.

SHIPPED: 7-12-57, from Jasper, Ga., by Terry Poultry Co., Inc.

LIBELED: 8-6-57, W. Dist. S. C.

CHARGE: 402 (a) (3)—contained birds contaminated with fecal matter; and 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 8-28-57. The Colonial Poultry Co., Inc., surrendered the article to the Government for whatever disposition it saw fit to make. The article was destroyed, and the libel action was dismissed.

24189. Eviscerated turkeys. (F. D. C. No. 40179. S. Nos. 62-606/7 M.)

QUANTITY: 12 crates containing a total of 480 lbs., and 5 crates containing a total of 160 lbs. at New York, N. Y.

SHIPPED: 11-29-56, from Frankford, Del., by Eagle Poultry Packers, Inc.

LIBELED: 5-6-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained birds which were contaminated with fecal matter when shipped; and 402 (a) (5)—contained diseased birds.

DISPOSITION: 5-29-57. Default—destruction.

24190. Frozen turkeys. (F. D. C. No. 40541. S. No. 69-389 M.)

QUANTITY: 277 ctns., each containing 1 turkey each, wrapped in a plastic bag at Philadelphia, Pa.

SHIPPED: 7-10-57, from Alhambra, Calif.

RESULTS OF INVESTIGATION: Examination showed that the article consisted of a portion of a truckload of frozen turkeys which had become stalled in a flood while in transit. The flood water rose to the top of the 2 bottom layers of cartons in the truck, penetrated them, and, in many instances, penetrated the plastic coverings.

LIBELED: 7-31-57, E. Dist. Pa.

CHARGE: 402 (a) (4)—while in interstate commerce, the article was held under insanitary conditions.

DISPOSITION: 8-19-57. Consent—claimed by J. Manaster Co., Chicago, Ill. Segregated; 21 turkeys weighing a total of 548 lbs. 15 ozs. were found unfit.

VITAMIN, MINERAL, AND OTHER PRODUCTS OF SPECIAL DIETARY SIGNIFICANCE

24191. Vitamin tablets and capsules. (F. D. C. No. 40195. S. Nos. 58-070/2 M.)

QUANTITY: 279 24-tablet boxes, 380 100-tablet btls., and 101 30-capsule boxes at Coffeyville, Kans.

SHIPPED: During 1947, from New York and Little Neck, N. Y.

LIBELED: 5-10-57, Dist. Kans.

CHARGE: 402 (b) (1)—while held for sale, valuable constituents, vitamin D in the 101 box lot and vitamin B₁ in all lots, had been in part omitted or abstracted from the articles; and 403 (a)—the label statements, which represented that the tablets and capsules contained 333 U. S. P. units of vitamin B₁ each, and that the capsules also contained 1,000 U. S. P. units of vitamin D, were false and misleading since the tablets and capsules contained less vitamin B₁ than represented and the capsules contained, also, less vitamin D than represented.

DISPOSITION: 6-28-57. Default—destruction.

24192. Yeast. (F. D. C. No. 40359. S. No. 74-891 M.)

QUANTITY: 12 cases, 24 8-oz. cans each, at Los Angeles, Calif.

SHIPPED: Between 2-20-57 and 4-10-57, from New York, N. Y., by Bakon Yeast, Inc.

LABEL IN PART: "Bakon * * * Yeast * * * No Salt * * * (Best Flavor For Salt Free Diet)."

LIBELED: 6-26-57, S. Dist. Calif.

CHARGE: 403 (j)—the article purported to be and was represented for special dietary use by reason of its low sodium content, and its label failed to bear a statement of the number of milligrams of sodium per 100 grams of the article and a statement of the number of milligrams of sodium in an average serving of the article.

DISPOSITION: 9-26-57. Default—destruction.

24193. Canned spinach (dietetic). (F. D. C. No. 40640. S. No. 49-185 M.)

QUANTITY: 155 cases, 24 No. 303 cans each, at Chicago, Ill.

SHIPPED: 6-28-57, from Alma, Ark., by Alma Canning Co.

LABEL IN PART: "Cellu Contents 1 Lb. Spinach * * * Sodium * * * mgs. in 100 grams 55 * * * Sodium * * * mgs. in ½ cup 66 * * * Special Purpose Food * * * Packed without added sugar or salt in order that they may be used for diets wherein sugar or salt content are limited and for use in quantitative diets for which the food analysis must be known."

RESULTS OF INVESTIGATION: Examination showed that the article contained 134 to 245 percent of the declared amount of sodium, or in excess of 55 milligrams per 100 grams.

LIBELED: 9-12-57, N. Dist. Ill.

CHARGE: 403 (a)—when shipped, the label statements "Sodium * * * mgs. in 100 grams 55" and "Sodium * * * mgs. in ½ cup 66" were false and misleading as applied to a product that contained substantially higher amounts of sodium.

DISPOSITION: 10-10-57. Default—destruction.

24194. Canned strained spinach. (F. D. C. No. 40250. S. No. 66-287 M.)

QUANTITY: 41 cases, 24 1-lb. 3-oz. cans each, at San Francisco, Calif.

SHIPPED: Between 2-6-57 and 3-8-57, from Green Bay, Wis., by the Larsen Co.

LABEL IN PART: (Can) "Sexton Restricted Diet * * * Strained Spinach . . . Without Sugar or Seasoning . . . Sodium * * * Milligrams per 100 Grams 5."

RESULTS OF INVESTIGATION: Examination showed the sodium content to be an average of 20.25 milligrams per 100 grams.

LIBELED: 5-14-57, N. Dist. Calif.

CHARGE: 403 (a)—when shipped, the label statement "Milligrams per 100 Grams 5" was false and misleading.

DISPOSITION: 5-28-57. Default—delivered to a Federal institution for use by the inmates.

MISCELLANEOUS FOODS***24195. Coal-tar color mixtures and bronze powder. (Inj. No. 321.)**

COMPLAINT FOR INJUNCTION FILED: 10-1-57, S. Dist. Calif., against Westco Products, a partnership, Los Angeles, Calif., and Paul J. Ziegler and Allen S. Ziegler, partners.

LABEL IN PART: (Specimen label of coal-tar color mixtures) "4-oz. Paste Color Violet Contains: Sugar, Glycerine and Water. Certified Food Color Lot #G 5689 Westco 1654 Long Beach Ave., Los Angeles 21, Calif." (Specimen label of bronze powder) "Samson Bronze Powder Finest grade Pale Gold Brilliant Pound."

CHARGE: The complaint alleged that the defendants were in the business of manufacturing and distributing bakers' and confectioners' supplies, including coal-tar color mixtures, and that in the manufacture of such mixtures the defendants used powdered straight coal-tar colors which had been certified by the Food and Drug Administration, mixed such straight coal-tar colors and added diluents such as sugar, glycerine, and water, labeled the mixtures with a lot number which the Food and Drug Administration had assigned to one of the straight coal-tar color components of the mixtures at the time it certified that straight color, and until shortly before the filing of the complaint, had not had any of the mixtures certified by the Food and Drug Administration.

The complaint also alleged that the defendants formerly sold bronze powder, that they invoiced such powder as gold powder, and that in one of the defendants' booklets previously issued, entitled "Ring Up Higher Profits," representations were made with respect to the use of such powder for decorating cakes.

The complaint further alleged that the defendants had been causing to be introduced and delivered for introduction into interstate commerce, the bronze powder and the coal-tar color mixtures which were adulterated and misbranded as follows: 402 (a) (1)—the bronze powder contained poisonous and deleterious substances, copper and zinc, which may render it injurious to health; 402 (c)—the coal-tar color mixtures, themselves, were not from batches which had been certified in accordance with regulations; and 403 (a)—the labeling of each coal-tar color mixture was false and misleading since the statements in the labeling, such as "Certified Food Color Lot #G5689," created the impression that the mixture was certified by the Food and Drug Administration and that the Food and Drug Administration had assigned such lot number to the mixture, whereas, the mixture was not certified by the Food and Drug Administration and the Food and Drug Administration did not assign such lot number to the mixture.

DISPOSITION: 1-8-57. The defendants having consented, the court entered a decree of permanent injunction (1) enjoining the defendants against causing to be introduced or delivered for introduction into interstate commerce any bronze powder for use as a component of food, and any coal-tar color mixture which has not been certified by the Food and Drug Administration, and (2) ordering that the defendants make a prompt and reasonable effort to recall from their customers all outstanding stocks of bronze powder which defendant had distributed to such customers at any time in the past.

*See also No. 24111.

24196. Whitex Special antioxidant. (F. D. C. No. 40247. S. No. 55-661 M.)

QUANTITY: 7 cases, each containing 12 jars at Evansville, Ind.

SHIPPED: 3-28-57, from Kingsport, Tenn., by the Bond Co.

LABEL IN PART: (Jar) "Whitex Special Anti-Oxidant—Net Weight One Pound."

LIBELED: 5-16-57, S. Dist. Ind.

CHARGE: 403 (a)—when shipped, the statement "Net Weight One Pound" on the label of the article, was false and misleading as applied to the article which contained less than the declared amount; and 403 (e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 7-15-57. Default—destruction.

24197. Mexican dinner. (F. D. C. No. 40370. S. No. 51-362 M.)

QUANTITY: 30 cases, 6 boxes each, at San Diego, Calif.

SHIPPED: 5-20-57, from Phoenix, Ariz., by Rosita Products Co., Inc.

LABEL IN PART: (Box) "Rosarita Mexican Dinner this package contains 1 can tortillas, 1 can enchilada sauce, 1 can refried beans, 1 can taco filling."

LIBELED: 7-9-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained insect fragments when shipped.

DISPOSITION: 8-9-57. Default—destruction.

24198. Spanish rice dinner and rice. (F. D. C. No. 40580. S. Nos. 57-835 M, 57-837 M.)

QUANTITY: 35 100-lb. bags of rice and 28 ctns., each containing 15 10-oz. bags of Spanish rice dinner repackaged by the dealer from bulk rice stock at Valdosta, Ga., in possession of Dixie Lake Milling Co.

SHIPPED: 6-19-57, from Stuttgart, Ark.

LIBELED: 8-23-57, M. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-27-57. Default—destruction.

24199. Wax coating for fruits and vegetables. (F. D. C. No. 40283. S. No. 63-698 M.)

QUANTITY: 28 55-gal. barrels at Monte Vista, Colo.

SHIPPED: 10-4-56, from New Orleans, La., by Garden Glo, Inc.

LABEL IN PART: "Mackie's Garden Glo Wax Coating for Fruit and Vegetables."

LIBELED: 6-21-57. Dist. Colo.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous or deleterious substance, namely, borax, which is unsafe within the meaning of 406; and 403 (i) (2)—the label failed to bear the common or usual name of each ingredient of the article since borax had not been declared.

DISPOSITION: 8-8-57. Default—destruction.

24200. Wax coating for fruits and vegetables. (F. D. C. No. 40379. S. No. 71-531 M.)

QUANTITY: 31 55-lb. drums at Grand Forks, N. Dak.

SHIPPED: 9-16-55, from New Orleans, La., by Garden Glo, Inc.

LABEL IN PART: "Mackie's Garden Glo."

LIBELED: 7-13-57, Dist. N. Dak.; amended libel 7-15-57.

CHARGE: 402 (a) (2)—contained, when shipped, an added poisonous or deleterious substance, namely, borax, which is unsafe within the meaning of 406; and 403 (i) (2)—the label of the article failed to bear the common or usual name of each ingredient since borax had not been declared; and 403 (k)—the article contained an artificial coloring and its label failed to state that fact.

DISPOSITION: 8-27-57. Default—destruction.

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¹ (24117, 24195) Permanent injunction issued.

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¹ (24117, 24195) Permanent injunction issued.

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¹ (24117, 24195) Permanent injunction issued.

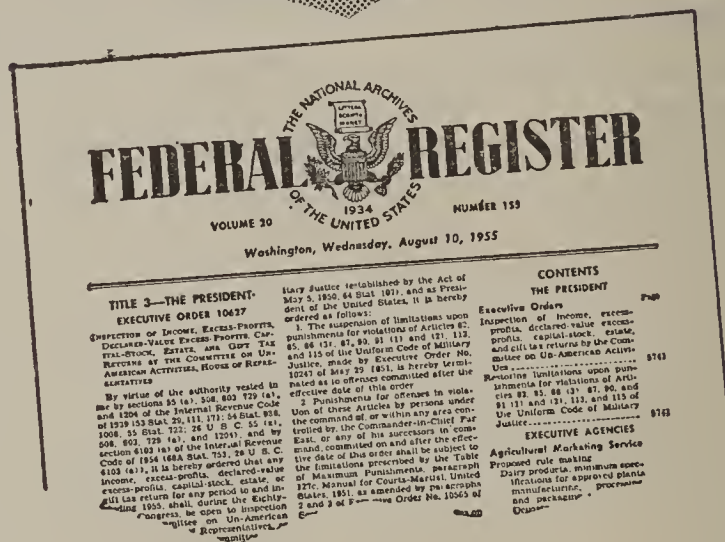
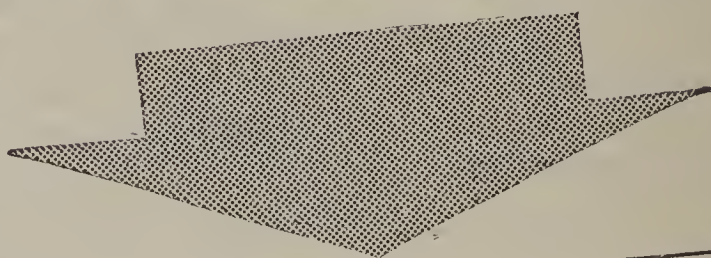
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¹ (24117, 24795) Permanent injunction issued

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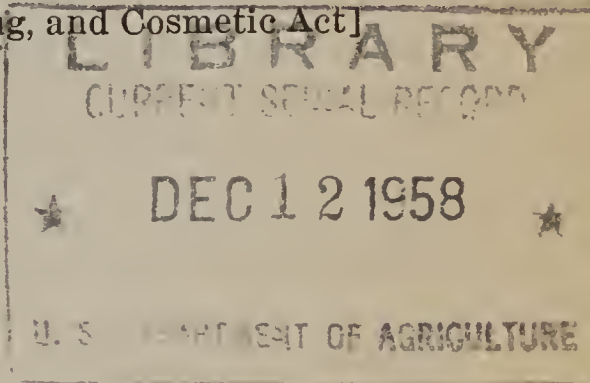
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

24201-24250

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; and (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere or a finding of guilty after trial. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., November 6, 1958.

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SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 24201-24250

Adulteration, Section 402 (a) (1), the article contained an added poisonous substance which may have rendered it injurious to health; Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; and Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (e) (2), the article was in package form, and it failed to bear a label containing an accurate statement of the quantity of contents; Section 403 (h) (1), the article purported to be and was represented as a food for which a standard of quality has been prescribed by regulations, and its quality fell below such standard; and Section 403 (h) (2), the article purported to be and was represented as a food for which a standard of fill of container had been prescribed by regulations, and it fell below the standard of fill of container applicable to it.

Oleomargarine, Section 407 (b) (3), the label of the article, when sold and offered for sale, failed to bear the word "oleomargarine" or "margarine" and a full and accurate statement of all the ingredients contained in such oleomargarine or margarine; Section 407 (c), colored oleomargarine or margarine was possessed in a form ready for serving at a public eating place, and no notice that oleomargarine or margarine was being served was displayed; and colored oleomargarine or colored margarine was served at a public eating place, and each separate serving neither bore, nor was accompanied by, labeling identifying it as oleomargarine or margarine, and it was not triangular in shape.

CEREALS AND CEREAL PRODUCTS

FLOUR*

24201. Flour. (F. D. C. No. 40017. S. No. 21-210 M.)

INFORMATION FILED: 5-21-57, E. Dist. Okla., against Ray J. Stanfill, a partner in the partnership of Stanfill Milling Co., Westville, Okla.

ALLEGED VIOLATION: Between 10-9-56 and 11-8-56, the defendant caused a number of bags of flour to be placed in a building accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the flour being adulterated.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta pellets; and 402 (a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 7-8-57. \$100 fine.

24202. Flour. (F. D. C. No. 40427. S. Nos. 65-083/5 M.)

INFORMATION FILED: 8-29-57, E. Dist. Tenn., against Jefferson D. Sluder, t/a Newport Milling Co., Newport, Tenn.

SHIPPED: 4-4-57, from Tennessee to North Carolina.

*See also No. 24212.

LABEL IN PART: (Bag) "10 Lbs. Net Weight Self-Rising Dixie Cream Flour Morristown Milling Co. Morristown, Tenn.," "10 Lbs. Net Weight Self-Rising Manufactured by Mohawk Roller Mills Tube Rose Flour Mohawk, Tenn.," and "25 Lbs. Net Weight Self-Rising Family Patent Flour White Owl Newport Milling Co. Newport, Tenn."

CHARGE: 402 (a) (3)—contained insect fragments and insect parts; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-18-57. \$500 fine.

24203. Flour, shelled peanuts, and almonds. (F. D. C. No. 39438. S. Nos. 32-218/20 M.)

QUANTITY: 100 100-lb. bags of flour, 3 100-lb. bags of shelled peanuts, and 50 lbs. of almonds at Philadelphia, Pa., in possession of Paragon Supply Co.

SHIPPED: (Flour) 3-30-56 and 5-1-56, from Shelby, Ohio; (shelled peanuts) 10-12-55, from Georgia; and (almonds) 12-9-55, from Yuba City, Calif.

LIBELED: 8-24-56, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-26-56. Default—destruction.

24204. Flour. (F. D. C. No. 40236. S. Nos. 65-876/8 M.)

QUANTITY: 141 50-lb. bags at Sacramento, Calif., in possession of Howard Terminals.

SHIPPED: 12-14-56 and 12-21-56, from Ogden, Utah.

LIBELED: 5-3-57, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-9-57. Default—destruction.

24205. Flour. (F. D. C. No. 40303. S. No. 62-738 M.)

QUANTITY: 172 100-lb. bags at Carteret, N. J., in possession of D. Ulman & Sons.

SHIPPED: 4-15-57, from Buffalo, N. Y.

LIBELED: 6-5-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-12-57. Consent—claimed by D. Ulman & Sons. Segregated; 109 bags denatured for use as hog feed.

24206. Flour. (F. D. C. No. 40182. S. No. 62-728 M.)

QUANTITY: 220 100-lb. bags at Elizabeth, N. J., in possession of Brown's bakery.

SHIPPED: 10-26-56 and 1-28-57, from Alton, Ill., and Minneapolis, Minn.

LIBELED: 4-26-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained rodent urine and rodent hairs; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 7-30-57. Consent—claimed by Brown's Bakery and converted into stock feed.

24207. Flour. (F. D. C. No. 40368. S. No. 41-237 M.)

QUANTITY: 16 50-lb. bags at Bristol, S. Dak.

SHIPPED: 1-14-57, from New Prague, Minn.

LIBELED: 7-5-57, Dist. S. Dak.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 8-5-57. Consent—destruction.

24208. Flour and sauerkraut. (F. D. C. No. 40377. S. Nos. 81-756/8 M, 81-763 M.)

QUANTITY: 53 25-lb. bags and 24 50-lb. bags of flour, and 38 cases, 24 No. 2½ tins each, of sauerkraut at Tupelo, Miss., in possession of J. J. Rogers & Sons.

SHIPPED: Between 12-6-52 and 6-12-57, from Hays, Kans., and Indianapolis, Ind.

LIBELED: 7-17-57, N. Dist. Miss.

CHARGE: 402 (a) (3)—the flour contained rodent urine and excreta, and the sauerkraut contained a decomposed substance while held for sale; and 402 (a) (4)—the flour had been held under insanitary conditions.

DISPOSITION: 8-7-57. Default—destruction.

24209. Flour and corn sirup solids. (F. D. C. No. 40382. S. Nos. 44-345/7 M.)

QUANTITY: 13 100-lb. bags and 11 25-lb. bags of flour, and 78 100-lb. bags of corn sirup solids at Little Rock, Ark., in possession of Terminal Warehouse Co.

SHIPPED: Between 3-1-56 and 12-5-56, from Chester, Ill., and Memphis, Tenn.

LIBELED: 7-19-57, E. Dist. Ark.

CHARGE: 402 (a) (3)—contained urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-30-57. Consent—the flour was claimed by the H. C. Cole Milling Co., Chester, Ill., and the corn sirup solids were claimed by the Hubinger Co., Keokuk, Iowa. Segregated; all of the flour, and 19 bags of the corn sirup solids were denatured for use as animal feed.

24210. Flour. (F. D. C. No. 40567. S. No. 57-638 M.)

QUANTITY: 69 25-lb. bags at Tampa, Fla.

SHIPPED: 2-15-57, from Enid, Okla.

LIBELED: 8-13-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-6-57. Default—destruction.

MACARONI AND NOODLE PRODUCTS

24211. Macaroni products. (F. D. C. No. 35775. S. Nos. 70-390 L, 70-392/3 L.)

INFORMATION FILED: 2-9-54, E. Dist. Mich., against Sam Palazzolo, Carl V. Viviano, and John A. Viviano, t/a Vivison Macaroni Co., and as Viviano Bros. Macaroni Co., Detroit, Mich.

SHIPPED: 5-27-53, from Michigan to Ohio.

LABEL IN PART: (Pkg.) "Clarion Spaghetti Made from Pure Semolina Flour Net Weight 16 Ounces." (Ctn.) "One Pound Net Viviano Detroit Brand Macaroni Products Made from No. 1 Pure Semolina Mfd. by Vivison Maca-

roni Company, Detroit, Michigan Shells" and "One Pound Net Viviano Detroit Brand Macaroni Products Made from No. 1 Pure Semolina Mfd. by Viviano Bros. Macaroni Co. Detroit, Michigan Elbow Macaroni."

CHARGE: 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: On 3-3-54, the defendants filed a motion to dismiss the information and to suppress the evidence secured by the Government, on the grounds that the evidence was secured illegally; that the entry for inspection of the defendants' premises was an illegal entry and not in accord with Section 704; and that the entry of the Government agent and the subsequent search was in violation of the defendants' constitutional rights under the fourth and fifth amendments. The motion came on for hearing on 3-22-54, and was subsequently denied by the court on 4-27-54, since it appeared that there had been no invasion of the defendants' constitutional rights and that the inspection complained of was in accordance with law.

The case came on for trial before the court without a jury on 8-30-55. At the conclusion of the trial on 9-12-55, the court entered the following findings of fact and conclusions of law:

THORNTON, *District Judge*: "Under the law, sitting here as a court and jury on a waiver of jury in a criminal matter, I am only required to make a finding of guilt or innocence as to the defendants here on trial. Because there has been some departure on the part of the Government as to their opening argument, and as to the defense in their argument to the jury, a departure from the testimony in this case, and probably an unintentional wandering over into the field of conjecture, and because the case does have certain technical aspects that the ordinary criminal case might not have, I feel that I should make special Findings of Fact and certain Conclusions of Law, and I intend doing that, and will.

"And, I do find as a fact that the Inspector of the Food and Drug Administration inspected the premises of the Vivison Macaroni Company on May 28, 1953, and during the course of his inspection he was accompanied at times by Sam Palazzolo and on other occasions during the period of his inspection by Carl V. Viviano, both of whom are partners in the business of Vivison Macaroni Company.

"That the Food and Drug Inspector was at this plant about six hours in conjunction with this investigation.

"That in the course of conducting this investigation, the Food and Drug Inspector took samples of insect fragments and insect larvae that he found in and about the machinery and the premises of the Vivison Macaroni Company on May 28, 1953.

"That he forwarded these samples to the Food and Drug Administration for analysis, and that the analysis conducted by the different chemists of the Food and Drug Administration revealed the presence of filth in the form of insect fragments and insect larvae in the samples that had been withdrawn from the plant of the Vivison Macaroni Company operated by the defendants.

"That the Inspector took as samples two pints of unused semolina, the product of General Mills which the defendants were using in their production of macaroni, which was also forwarded to the Food and Drug Administration for analysis, and the analysis made of the semolina disclosed no insect infestation of any kind.

"That samples of the macaroni manufactured by the defendants were collected from each of three interstate shipments of macaroni products, and these samples were forwarded to the Food and Drug Administration for analysis, and the analysis disclosed insect infestation of the same type and kind as they observed in the defendants' factory, as indicated by the samples collected at the factory by the Food and Drug Inspector.

"That the parties to this lawsuit have stipulated that the samples were drawn from the interstate shipments which were shipped by the defendants in interstate commerce on the dates, and from and to the places designated in each of the three counts in the information, so that no finding of fact is necessary

in relation to these shipments as they pertain to a shipment in interstate commerce.

"That semolina is a product or a by-product of durum wheat.

"When a plant is infested with filth, the result of this filth would be manifested in the finished product manufactured in the plant, providing the manufactured products would be, as in this case, food.

"That insects and insect fragments can be kept out of a plant by good housekeeping alone.

"The 1952 crop of durum wheat was not contaminated by insect infestation.

"That there was an effort on the part of both Sam Palazzolo and Carl Viviano, in their testimony, to minimize the part played by the co-defendant, John Viviano, in the operation of the business of the Vivison Macaroni Company, and to exonerate him from any culpability in relation to the offenses charged in the information.

"That the defendant, John Viviano, took an active part in the operation of the Vivison Macaroni Company, including the time of the alleged offenses in the information.

"That the defendant, Sam Palazzolo, was evasive in his answers to questions put to him on cross-examination. However, neither Sam Palazzolo nor Carl Viviano rebutted the testimony of the Food and Drug Inspector in relation to the samples that he, the Food and Drug Inspector, testified he took from the plant of the Vivison Macaroni Company on May 28, 1953.

"The testimony of James J. Winston, produced by the defendants as an expert, is of questionable value to this court, sitting as a jury, since it was developed on cross-examination that his analysis was not confined exclusively to the product semolina, made from durum wheat, and if his testimony in this regard, on his direct examination, had been permitted to stand it would have been a misrepresentation of true facts.

"The defendants produced the testimony of two inspectors from the Bureau of Foods and Standards for the State of Michigan who inspected the Vivison Macaroni plant on October 1, 1953, for insect infestation. These witnesses further testified that they inspected the stock on hand, as well as the condition of the equipment, and that their inspection consumed a period of time of from one-half hour to one hour, which testimony negatives the testimony of Carl Viviano and Sam Palazzolo that they always kept a fairly substantial stock of their finished product on hand in their plant, since it would be, in the opinion of this court sitting as a jury, a physical impossibility for these two State Inspectors to examine six, eight or ten thousand cases of macaroni in a period of time of from one-half hour to an hour, and their testimony is that they did examine the stock on hand.

"That the defense witness, Harry F. Fisher, in his inspection of the Vivison Macaroni Company, concentrated on keeping the premises free from roaches, rats and mice, as called for under the service contract that brought him into the plant, and that the inspection of the premises that he made on May 6, 1953, was not as thorough as that made by the Government inspector on May 28, 1953.

"The defendants produced an inspector of the Board of Health of the City of Detroit, who testified that on March 17, 1953, he inspected the plant of the Vivison Macaroni Company and on that occasion examined the bags of flour on these premises and found this flour not infested, which corroborates the testimony of the Government expert, Mr. Nicholson.

"I find that on or about May 27, 1953, the defendants' unlawfully caused to be introduced and delivered for introduction into interstate commerce, as heretofore stipulated to by the parties, certain food which at that time was adulterated in that it had been prepared and packed under insanitary conditions, whereby it had become contaminated with filth, and that this finding relates to all three counts in the information.

"I conclude, as a matter of law, that the United States District Court for the Eastern District of Michigan, Southern Division, has jurisdiction of the subject matter set out in the information, and of the parties named in the information.

"I conclude that the testimony adduced at the hearing of this cause in relation to each of the three counts constitutes a violation of Title 21, U. S. C. Section 342 (a) (4) in that the food mentioned in the information was adulterated within the meaning of this section in that it had been prepared and packed under insanitary conditions whereby it may have become contaminated with filth.

"The term 'food' means: 'Articles used for food or drugs for man or other animals * * *.'"

"Introduction, or delivery for introduction, into interstate commerce of any food, drug, device or cosmetic that is adulterated or misbranded, is prohibited under the laws of the United States.

"Food shall be deemed to be adulterated if it has been prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth.

"The term 'sanitary conditions' should be construed to have the usual and ordinary meaning.

"And, accordingly, and in keeping with the Findings of Fact and the Conclusions of Law as just stated by the court, I find Sam Palazzolo, Carl V. Viviano, and John A. Viviano guilty as charged in each of the three counts."

The defendants were each fined \$3,000 and placed on probation for two years.

Defendants then appealed to the United States Court of Appeals for the Sixth Circuit, and on 10-31-57, the appellate court affirmed the judgment of the district court.

24212. Egg noodles and flour. (F. D. C. No. 40634. S. Nos. 43-484 M, 43-490 M, 44-603 M.)

QUANTITY: 7 ctns., 24 5-oz. bags each, of egg noodles and 53 25-lb. bags and 10 50-lb. bags of flour at Jacksonville, Ill., in possession of Jenkinson Wholesale Grocer Co.

SHIPPED: Between 3-22-57 and 8-16-57, from St. Louis, Mo., and Arkansas City, Kans.

LIBELED: 9-11-57, S. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-10-57. Default—delivered to a public institution for use as animal feed.

MISCELLANEOUS CEREALS

24213. Wheat. (F. D. C. No. 40029. S. No. 53-986 M.)

QUANTITY: 121,800 lbs. at Spokane, Wash.

SHIPPED: 12-19-56, from Inverness, Mont., by McCabe Co.

LIBELED: 2-26-57, E. Dist. Wash.

CHARGE: 402 (a) (1)—contained, when shipped, an added poisonous substance, lead, which may render the article injurious to health.

DISPOSITION: 4-11-57. Consent—claimed by the Great Northern Railway Co., Spokane, Wash. Segregated; 8,250 lbs. destroyed.

24214. Wheat. (F. D. C. No. 40235. S. Nos. 56-456 M, 71-469 M.)

QUANTITY: 60,490 lbs. at Hastings, Minn.

SHIPPED: 4-18-57, from Hecla, S. Dak., by Estee Elevator Co.

LIBELED: 5-1-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-14-57. Consent—claimed by Estee Elevator Co., and denatured for use as animal feed.

24215. Wheat. (F. D. C. No. 40245. S. No. 20-875 M.)

QUANTITY: 43,590 lbs. at Parkville, Mo.

SHIPPED: 4-10-57, from Erie Kans., by Erie Grain Co.

LIBELED: 5-10-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-15-57. Consent—claimed by Continental Grain Co., Kansas City, Mo., and denatured for use as animal feed.

24216. Wheat. (F. D. C. No. 40264. S. No. 77-957 M.)

QUANTITY: 120,600 lbs. at North Kansas City, Mo.

SHIPPED: 5-20-57, from Holdrege, Nebr., by Holdrege Coop. Equity Exchange.

LIBELED: 5-27-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 5-29-57. Consent—claimed by Equity Union Grain Co., Kansas City, Mo., and cleaned to remove all of the rodent filth.

24217. Wheat. (F. D. C. No. 40308. S. No. 56-347 M.)

QUANTITY: 446 bushels at Chicago, Ill.

SHIPPED: 5-22-57, from Lowell, Ind., by Lowell Grain & Hay Co.

LIBELED: 6-3-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 6-19-57. Consent—claimed by Cargill, Inc., Minneapolis, Minn., and converted to animal feed.

24218. Wheat. (F. D. C. No. 40265. S. No. 79-676 M.)

QUANTITY: 123,600 lbs. at Minneapolis, Minn.

SHIPPED: 5-14-57, from Plevna, Mont., by Farmer's Coop. Association.

LIBELED: 5-28-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 6-24-57. Consent—claimed by Farmer's Union Grain Terminal Association, St. Paul, Minn. Reconditioned; 14,030 lbs. denatured for use as animal feed.

24219. Wheat. (F. D. C. No. 40273. S. No. 71-097 M.)

QUANTITY: 66,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-28-57, from Turton, S. Dak., by C. W. Derr Co., Inc.

LIBELED: 6-14-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 6-24-57. Consent—claimed by C. W. Derr Co., Inc., and denatured for use as animal feed.

24220. Wheat. (F. D. C. No. 40262. S. No. 71-079 M.)

QUANTITY: 82,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-15-57, from Claremont, S. Dak., by Cargill, Inc.

LIBELED: 5-29-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 6-24-57. Consent—claimed by Cargill, Inc., and denatured for use as animal feed.

24221. Wheat. (F. D. C. No. 40269. S. No. 56-596 M.)

QUANTITY: 90,000 lbs. at St. Paul, Minn.

SHIPPED: 5-14-57, from Abercrombie, N. Dak., by Abercrombie Grain Co.

LIBELED: 6-5-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 6-24-57. Consent—claimed by Great Plains Supply Co., St. Paul, Minn. Segregated; 6,290 lbs. denatured for use as animal feed.

CONFECTIONERY

24222. Candy. (F. D. C. No. 40002. S. Nos. 2-155/6 M, 61-670 M.)

INFORMATION FILED: 4-15-57, W. Dist. N. C., against J & J Candy Co., Inc., Charlotte, N. C., and Hugh M. Pettus, president.

SHIPPED: Between 9-12-56 and 10-5-56, from North Carolina to Virginia and West Virginia.

CHARGE: 402 (a) (3)—contained insects and insect parts; and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 10-8-57. The court fined the defendants \$200 jointly, and continued final judgment for 3 years on condition that Mr. Pettus file a sanitary report with the United States Attorney two weeks before each term of court.

24223. Candy. (F. D. C. No. 40539. S. No. 69-816 M.)

QUANTITY: 263 lbs. at Philadelphia, Pa.

SHIPPED: 6-28-57, from Mt. Dora, Fla., by Pink Cottage Candies.

LABEL IN PART: (Ctn.) "Pink Cottage Candies Sylvan Shores, Mount Dora, Florida".

LIBELED: 7-26-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insect parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-17-57. Default—destruction.

DAIRY PRODUCTS

BUTTER

24224. Butter. (F. D. C. No. 40492. S. No. 45-577 M.)

QUANTITY: 127 62-lb. ctns. at Baltimore, Md.

SHIPPED: 7-12-57, from Colonial Heights, Va., by Quality Dairy Farms Corp.

LIBELED: On or about 7-19-57, Dist. Md.

CHARGE: 402 (b) (2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter when shipped.

DISPOSITION: 7-30-57. Consent—claimed by Quality Dairy Farms Corp., and converted into butter oil.

24225. Butter. (F. D. C. No. 40496. S. Nos. 72-985/6 M.)

QUANTITY: 72 70-lb. cubes at Salt Lake City, Utah.

SHIPPED: 7-8-57 and 7-10-57, from Pocatello, Idaho, by the Blackfoot Creamery Co.

LIBELED: 7-23-57, Dist. Utah.

CHARGE: 402 (b) (2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter when shipped.

DISPOSITION: 8-7-57. Consent—claimed by Blackfoot Creamery Co., and re-worked to bring the article into compliance with the law.

MISCELLANEOUS DAIRY PRODUCTS

24226. Cream. (F. D. C. No. 40490. S. No. 64-621 M.)

QUANTITY: 46 10-gal. cans at Du Bois, Pa.

SHIPPED: 5-25-57, from various points in the State of New York, by Conservation Creameries, Inc.

RESULTS OF INVESTIGATION: Analysis showed that the article was contaminated with manure and insect fragments.

LIBELED: On or about 6-14-57, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained filth; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-6-57. Default—destruction.

FISH AND SHELLFISH

24227. Ocean perch fillets. (F. D. C. No. 40217. S. Nos. 61-250/1 M.)

QUANTITY: 61 10-lb. ctns. and 334 5-lb. ctns. at Boston, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessels "Notre Dame" and "Villanova" in the Atlantic Ocean outside the limits of Massachusetts and unloaded at Boston, Mass., on 4-12-57 and 4-30-57.

LIBELED: 5-17-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 7-30-57. Default—delivered to a charitable institution for use as animal feed.

24228. Fresh whitefish. (F. D. C. Nos. 40351, 40352. S. Nos. 72-561/2 M.)

QUANTITY: 20 boxes containing a total of 1,000 lbs., and 31 50-lb. boxes at Chicago, Ill.

SHIPPED: 6-22-57, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Product of Canada Sandfly Lake Cert. #49" and "Product of Canada Red Sucker Lake Cert. #64."

LIBELED: 7-5-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 7-31-57. Default—destruction.

24229. Frozen haddock fillets. (F. D. C. No. 40525. S. No. 75-939 M.)

QUANTITY: 82 master ctns., each containing 5 12-lb. ctns. at Boston, Mass.

SHIPPED: The fillets were from fish caught on or about 7-8-57, by the fishing vessel "Bonnie" in the waters of the Atlantic Ocean outside the limits of Massachusetts.

LIBELED: 7-19-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 8-19-57. Consent—claimed by Genoa Fisheries, Inc., d/b/a/Boston Bonnie Fisheries, Boston, Mass. Segregated; 539 lbs. destroyed.

24230. Canned crabmeat. (F. D. C. No. 40495. S. No. 53-691 M.)

QUANTITY: 92 cans at Chicago, Ill.

SHIPPED: 7-24-57, from Pascagoula, Miss., by Pascagoula Crab Co.

LABEL IN PART: "Pascagoula Crab Co. ALL LUMP CRABMEAT 1 lb. Net. 59 Miss. Pascagoula, Miss."

LIBELED: 7-29-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained *E. coli*; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 8-21-57. Default—destruction.

24231. Frozen lobster meat. (F. D. C. No. 40533. S. No. 68-434 M.)

QUANTITY: 48 5-lb. cans at Montauk, N. Y.

SHIPPED: 7-8-57, from Gloucester, Mass.

LIBELED: 7-31-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed lobster meat while held for sale.

DISPOSITION: 8-22-57. Default—destruction.

24232. Frozen oysters. (F. D. C. No. 40517. S. No. 57-932 M.)

QUANTITY: 49 cases, 12 12-oz. cans each, at Jacksonville, Fla.

SHIPPED: 5-24-57, from Chicago, Ill.

LIBELED: 7-15-57, S. Dist. Fla.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 8-16-57. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

24233. Canned crushed bananas. (F. D. C. No. 40628. S. No. 78-761 M.)

QUANTITY: 71 cases, 6 7-lb. cans each, at New York, N. Y.

SHIPPED: 5-13-57, from Costa Rica.

LIBELED: 9-23-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained a decomposed substance while held for sale.

DISPOSITION: 10-23-57. Default—destruction.

24234. Canned peaches. (F. D. C. No. 40686. S. No. 67-568 M.)

QUANTITY: 71 cases, 24 cans each, at Dunbar, W. Va.

SHIPPED: 8-11-57, from Tabor City, N. C., by Corbett Canning Co., Inc.

LABEL IN PART: (Can) "Southern Peach * * * Yellow Freestone Peaches Halves * * * Contents 1 Lb. 13 Oz."

RESULTS OF INVESTIGATION: Examination showed that the article contained small halves, mixed sizes, and hard, green peaches.

LIBELED: On or about 10-8-57, S. Dist. W. Va.

CHARGE: 403 (h) (1)—the quality of the article, when shipped, fell below the standard of quality for canned peaches, since all peach units of the article when tested, were not pierced by a weight of not more than 300 grams and the weight of the largest unit in the container of the article was more than twice the weight of the smallest unit therein, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 11-6-57. Default—delivered to charitable institutions for their use, and not for sale.

MISCELLANEOUS FRUIT PRODUCTS

24235. Lemon juice. (F. D. C. No. 40181. S. Nos. 57-904/5 M.)

QUANTITY: 24 cases, 12 24-oz. btls. each and 38 cases, 12 12-oz. btls. each and 6 12-oz. btls. at Orlando, Fla.

SHIPPED: 1-9-57, from St. Joseph, Mo., by Dubl-Rich Products Co.

LABEL IN PART: "Dubl-Rich Brand Processed California Lemon Juice * * * High in Vitamin C."

LIBELED: On or about 5-6-57, S. Dist. Fla.

CHARGE: 402 (b) (1)—valuable constituents, lemon juice and vitamin C, had been in part omitted or abstracted from the article when shipped; 402 (b) (2)—an artificially colored citric acid solution had been substituted for lemon juice; and 403 (a)—the label statement "Dubl-Rich * * * Lemon Juice * * * High In Vitamin C" was false and misleading, as applied to the article which contained less than 10 percent lemon juice and little or no vitamin C.

DISPOSITION: On or about 7-2-57. Default—destruction.

24236. Grapejuice concentrate. (F. D. C. No. 40362. S. No. 53-278 M.)

QUANTITY: 4 55-gal. drums at San Antonio, Tex.

SHIPPED: 4-20-57, from Fresno, Calif., by Raisin Syrup Co.

LIBELED: 6-28-57, W. Dist. Tex.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 12-11-57. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

24237. Dried beans. (F. D. C. No. 40364. S. Nos. 73-183/4 M.)

QUANTITY: 247 100-lb. bags at Sterling, Colo.

SHIPPED: 5-6-57, from King City, Calif., by King City Warehouse Co.

LABEL IN PART: "California Baby Limas" and "California Small White Beans."

LIBELED: 7-2-57, Dist. Colo.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 7-16-57. Consent—claimed by the Trinidad Bean & Elevator Co., Denver, Colo. Segregated; 10 100-lb. bags destroyed.

24238. Dried black-eyed beans. (F. D. C. No. 40373. S. No. 66-425 M.)

QUANTITY: 700 100-lb. bags at Memphis, Tenn.

SHIPPED: 6-24-57, from Turlock, Calif., by Roy M. Day.

LABEL IN PART: "California Blackeyes."

LIBELED: 7-9-57, W. Dist. Tenn.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-23-57. Consent—claimed by Rhodes Warehouse & Supply Co., Rhodes, Calif. Segregated; 212 bags denatured for use as seed.

*See also No. 24208.

24239. Dried peas. (F. D. C. No. 40629. S. No. 84-706 M.)

QUANTITY: 277 100-lb. bags at Chicago, Ill., in possession of Benson Fish Co., Inc.

SHIPPED: 9-28-56, from Spokane, Wash.

LIBELED: 9-5-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 9-16-57. Consent—claimed by Benson Fish Co. Inc. The article was cleaned and packed into new bags so as to be brought into compliance with the law.

24240. Canned mushrooms. (F. D. C. No. 40243. S. No. 53-263 M.)

QUANTITY: 24 cases, 24 cans each, at Dallas, Tex.

SHIPPED: 2-12-57, from Chace, France, by Etablissements Blanchaud.

LABEL IN PART: (Can) "Royalty Brand Mushrooms * * * Drained Weight 8 Oz. Pieces and Stems Product of France."

LIBELED: 5-14-57, N. Dist. Tex.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 6-17-57. Default—delivered to a Federal institution, for use as animal feed.

24241. Canned mushrooms. (F. D. C. No. 40326. S. Nos. 25-647/9 M.)

QUANTITY: 195 cases, 24 cans each and 61 cases, 24 cans each, at Portland, Harbor, Roseburg, Eugene, and Klamath Falls, Oreg.

SHIPPED: Between 12-22-55 and 2-20-57, from Hudson, N. Y., by Pacific Coast Merchandise Co.

LABEL IN PART: (Can) "S S & G Chopped Mushrooms Net Weight 8 Ozs," "Knaust's Cavern Sliced Mushrooms * * * Drained Wgt. 1 Lb. Net Avd," and "Knaust's Cavern Pieces and Stems Mushrooms * * * Drained Wgt. 1 Lb. Net Avd."

LIBELED: 7-1-57, Dist. Oreg.

CHARGE: 403 (a)—the statement "Drained Wgt. 1 Lb. Net Avd" on the label of the 61 case lot, when shipped, was false and misleading as applied to a product which contained less than 1 lb. drained weight avoirdupois; and 403 (h) (2)—all lots of the article purported to be and were represented as canned mushrooms, a food for which a standard of fill of container had been prescribed by regulations, and the article fell below such standard since the weight of the drained mushrooms in the container was less than that prescribed by the regulations, and the label of the article failed to bear a statement that it fell below such standard.

DISPOSITION: 11-4-57. Default—delivered to public and charitable institutions for their use.

OILS AND FATS

24242. Olive oil. (F. D. C. No. 40177. S. No. 61-266 M.)

QUANTITY: 8 1-gal. cans at Somerville, Mass.

SHIPPED: A quantity of cottonseed oil was shipped from Philadelphia, Pa., and Chattanooga, Tenn., to the Marconi Olive Oil Co., at Boston, Mass.,

where it was used in the manufacture of a product consisting of a mixture of cottonseed oil with little or no olive oil. Such product was shipped by the Marconi Olive Oil Co., to Somerville, Mass., in cans labeled as described below.

LABEL IN PART: (Can) "One Gallon Imported Product 100% Pure Olive Oil Marconi Brand Packed by Marconi Olive Oil Co."

LIBELED: 4-24-57, Dist. Mass.

CHARGE: 402 (b) (2)—while the article was held for sale, cottonseed oil with little or no olive oil had been substituted for olive oil; 402 (b) (4)—cottonseed oil had been added to the article or mixed or packed with it so as to increase its bulk or weight and reduce its quality; and 403 (a)—the label statement "Imported Product * * * Pure Olive Oil" was false and misleading.

DISPOSITION: 6-3-57. Default—delivered to a charitable institution for its use, and not for sale.

24243. Olive oil. (F. D. C. No. 40554. S. No. 68-653 M.)

QUANTITY: 9 cases, 6 cans each, at Brooklyn, N. Y.

SHIPPED: 5-7-57, from West New York, N. J., by Lionelli Packing Co.

LABEL IN PART: (Can) "One Gallon Net Imported Produce Lionelli Superfine Olive Oil Guaranteed 100% Pure."

RESULTS OF INVESTIGATION: Examination showed that the article was short volume.

LIBELED: 8-12-57, E. Dist. N. Y.

CHARGE: 403 (e) (2)—when shipped, the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 10-25-57. Default—delivered to a charitable institution for its use, and not for sale.

24244. Hydrogenated cottonseed oil. (F. D. C. No. 40540. S. No. 64-387 M.)

QUANTITY: 63 400-lb. drums at Coraopolis, Pa.

SHIPPED: Between November, 1956 and January 24, 1957, from East St. Louis, Ill.

LIBELED: 8-9-57, W. Dist. Pa.

CHARGE: 402 (a) (3)—contained paint flakes, metal particles, dirt, insect parts, rodent hairs, and rodent excreta pellets while held for sale.

DISPOSITION: 10-25-57. Consent—claimed by A. C. Co., Coraopolis, Pa., and converted into inedible rendered grease.

24245. Edible oil. (F. D. C. No. 40619. S. No. 72-206 M.)

QUANTITY: 3 cases, each containing 6 cans, and 6 additional cans at Benton Harbor, Mich.

SHIPPED: 7-10-57, from Chicago, Ill., by Chicago Macaroni & Food Products Co.

LABEL IN PART: (Case) "6-1 Gal. Italy Brand Table Oil Blend * * * 20% Olive Oil 80% Corn Oil," and (can) "One Gallon * * * Italy Brand * * * Table Oil * * * An excellent composition of eighty per cent corn oil and twenty per cent imported olive oil guaranteed."

RESULTS OF INVESTIGATION: Examination showed that the article was vegetable oil with little or no olive oil present.

LIBELED: 8-28-57, W. Dist. Mich.

CHARGE: 402 (b) (1)—a valuable constituent, olive oil, had been in whole or in part omitted from the article when shipped.

DISPOSITION: 10-11-57. Default—delivered to a charitable institution for its use, and not for sale.

OLEOMARGARINE

24246. Colored oleomargarine. (F. D. C. No. 40454. S. No. 33-601 M.)

INFORMATION FILED: 12-20-57, W. Dist. Mo., against Jack Massey t/a Massey's Cafe, Liberty, Mo.

ALLEGED VIOLATION: On 2-14-57, at Liberty, Mo., the defendant unlawfully possessed and served quantities of colored oleomargarine or colored margarine.

CHARGE: 407 (c)—colored oleomargarine or colored margarine was possessed at a public eating place, namely, Massey's Cafe, in a form ready for serving, and no notice that oleomargarine or margarine was being served was displayed; and colored oleomargarine or colored margarine was served at a public eating place, namely, Massey's Cafe, in a separate serving which neither bore, nor was accompanied by, labeling identifying it as oleomargarine or margarine, and which was not triangular in shape.

PLEA: Guilty.

DISPOSITION: 12-20-57. \$50 fine, plus costs.

24247. Colored oleomargarine. (F. D. C. No. 40431. S. No. 62-299 M.)

INFORMATION FILED: 12-12-57, E. Dist. N. Y., against A & A Food Service, Inc., Brooklyn, N. Y., and Seymour Ross, manager.

ALLEGED VIOLATION: On 3-2-57, the defendants unlawfully sold and offered for sale a number of packages which contained colored oleomargarine and which were labeled "It's Farm Crest Brand Lightly Salted Creamery Butter 4 Oz. Net It's Graded AA It's 93 Score Distributed by AFPCO, New York, New York."

CHARGE: 407 (b) (3)—the label of the article failed to bear (a) the word "oleomargarine" or "margarine" and (b) a full and accurate statement of all the ingredients contained in such colored oleomargarine.

PLEA: Guilty.

DISPOSITION: 1-10-58. Corporation fined \$500, and individual sentenced to 9 months in prison.

SPICES, FLAVORS, AND SEASONING MATERIALS

24248. Mustard seed cake. (F. D. C. No. 40227. S. No. 14-594 M.)

QUANTITY: 54 100-lb. bags at St. Louis, Mo., in possession of Halben Food Mfg. Co., Inc.

SHIPPED: 12-24-55, from Sunburst, Mont.

LIBELED: 4-23-57, E. Dist. Mo.

CHARGE: 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 5-20-57. Default—destruction.

24249. Poppyseeds. (F. D. C. No. 40380. S. No. 14-567 M.)

QUANTITY: 10 110-lb. bags at St. Louis, Mo., in possession of W. E. Beckmann Co.

SHIPPED: 4-15-57, from New York, N. Y.

LIBELED: 7-16-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained insects and webbing; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 8-13-57. Default—destruction.

24250. Frozen red chili puree. (F. D. C. No. 40018. S. Nos. 58-850 M, 58-857 M.)

INFORMATION FILED: 7-3-57, Dist. N. M., against Milton E. Baca, t/a Baca's Mexican Kitchen, Albuquerque, N. M., and Alfred Duran, manager.

SHIPPED: 9-25-56 and 11-7-56, from New Mexico to Texas.

LABEL IN PART: (Pkg.) "Net Weight 14 Oz. Baca's Mexican Kitchen Caribe Brand Frozen Uncooked Red Chili Prepared, Packed and Guaranteed by Baca's Mexican Kitchen Albuquerque, New Mexico."

CHARGE: 402 (a) (3)—contained insect fragments when shipped.

PLEA: Nolo contendere.

DISPOSITION: 7-10-57. \$300 fine against each defendant.

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¹ (24211) Prosecution contested. Contains findings of fact and conclusions of law.

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¹ (24211) Prosecution contested. Contains findings of fact and conclusions of law.

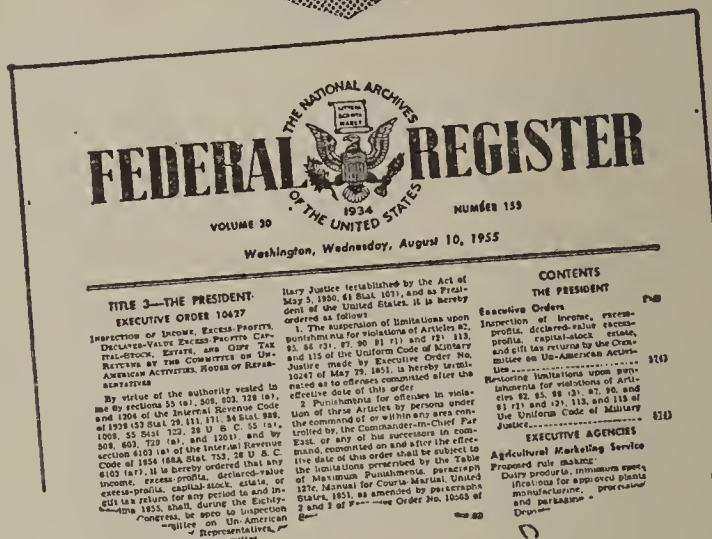
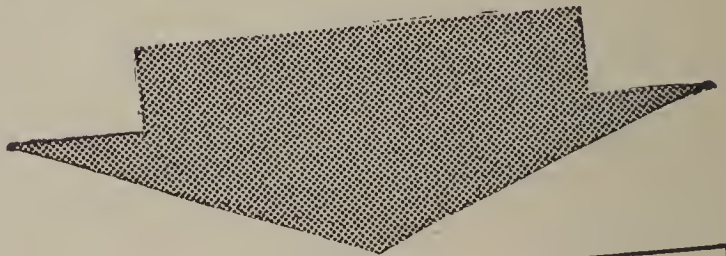
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¹ (24211) Prosecution contested. Contains findings of fact and conclusions of law.

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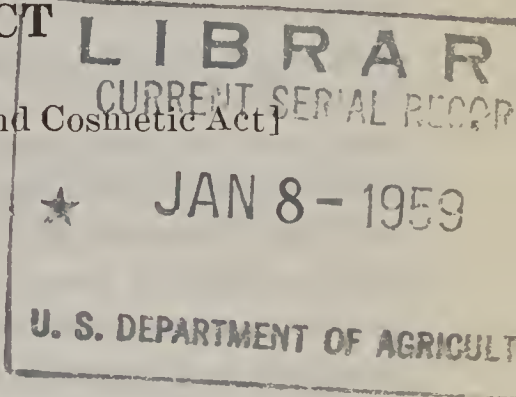
FOOD AND DRUG ADMINISTRATION

NOTICES OF JUDGMENT UNDER THE FEDERAL FOOD,
DRUG, AND COSMETIC ACT

[Given pursuant to section 705 of the Food, Drug, and Cosmetic Act]

24251-24350

FOODS



The cases reported herewith were instituted in the United States district courts by United States attorneys, acting upon reports submitted by the Department of Health, Education, and Welfare. They involve foods which were adulterated or misbranded within the meaning of the Act when introduced into and while in interstate commerce or while held for sale after shipment in interstate commerce. These cases involve (1) seizure proceedings in which decrees of condemnation were entered by default or by consent; (2) criminal proceedings which were terminated upon pleas of guilty or nolo contendere, verdicts of guilty or not guilty, or dismissal upon a motion of acquittal after a verdict of guilty; and (3) injunction proceedings terminated with the entry of an injunction. The seizure proceedings are civil actions taken against the *goods* alleged to be in violation, and the criminal and injunction proceedings are against the *firms* or *individuals* charged to be responsible for violations.

Published by direction of the Secretary of Health, Education, and Welfare.

GEO. P. LARRICK, *Commissioner of Food and Drugs.*

WASHINGTON, D. C., *December 10, 1958.*

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**SECTIONS OF FEDERAL FOOD, DRUG, AND COSMETIC ACT INVOLVED IN VIOLATIONS
REPORTED IN F. N. J. NOS. 24251-24350**

Adulteration, Section 402 (a) (1), the article contained an added poisonous or deleterious substance which may have rendered it injurious to health; Section 402 (a) (2), the article, in two cases, contained an added poisonous or deleterious substance which was unsafe within the meaning of Section 406, and, in six other cases, the article was a raw agricultural commodity and contained a pesticide chemical which was unsafe within the meaning of 408 (a); Section 402 (a) (3), the article consisted in part of a filthy or decomposed substance, or it was otherwise unfit for food; Section 402 (a) (4), the article had been prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth; Section 402 (b) (1), a valuable constituent had been in whole or in part omitted or abstracted from the article; Section 402 (b) (2), a substance had been substituted wholly or in part for the article; Section 402 (b) (3), the inferiority of the article had been concealed; Section 402 (b) (4), a substance had been added to the article or mixed or packed therewith so as to increase its bulk or weight or reduce its quality; Section 402 (c), the article contained a coal-tar color other than one from a batch that had been certified in accordance with regulations; Section 406 (a), a poisonous or deleterious substance was added to food when such substance was not required in the production thereof and could have been avoided by good manufacturing practice; and Section 408 (a), a poisonous or deleterious pesticide chemical, or a pesticide chemical which is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals, as safe for use, had been added to a raw agricultural commodity; and no tolerance or exemption from the requirement of a tolerance for such pesticide chemical in or on the raw agricultural commodity had been prescribed by the Secretary of Health, Education, and Welfare.

Misbranding, Section 403 (a), the labeling of the article was false and misleading; Section 403 (e), the article was in package form, and it failed to bear a label containing (1) the name and place of business of the manufacturer, packer, or distributor, and (2) an accurate statement of the quantity of contents; Section 403 (f), certain information required by the Act to appear on the label of the article was not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; Section 403 (g) (1), the article purported to be and was represented as a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to such definition and standard; Section 403 (h) (2), the article purported to be and was represented as a food for which a standard of fill of container had been prescribed by regulations, and it fell below the standard of fill of container applicable to it; Section 403 (i) (1), the article was not subject to the provisions of Section 403 (g) and its label failed to bear the common or usual name of the food; Section 403 (i) (2), the article was not subject to the provisions of Section 403 (g) and was fabricated from two or more ingredients, and its label failed to bear the common or usual name of each such ingredient; Section 403 (j), the article purported to be and was represented for special dietary uses, and its label failed to bear such information as the Secretary has determined to be, and by regulations prescribed as, necessary in order fully to inform purchasers as to its value for such uses; and Section 403 (k), the article contained a preservative, and it failed to bear labeling stating that fact.

BEVERAGES AND BEVERAGE MATERIALS*

24251. Grapette pop. (F. D. C. No. 40455. S. Nos. 78-216 M, 78-238 M.)

INFORMATION FILED: 10-28-57, W. Dist. Mo., against Nesbitt Grapette Bottling Co., Inc., t/a Frostie Grapette Bottling Co., Kansas City, Mo., and Robert E. Miller, secretary-treasurer of the corporation.

SHIPPED: 6-24-57 and 7-15-57, from Missouri to Kansas.

LABEL IN PART: (Btl.) "Grapette Contains 6 Fl. Oz. Grape Soda" and "Contains 6 Oz. Grapette Soda Imitation Grape Flavor."

CHARGE: 402 (a) (3)—the article in the July 15 shipment contained mold filaments; and 402 (a) (4)—the article in both shipments had been prepared under insanitary conditions.

PLEA: Not guilty.

DISPOSITION: The case came on for trial before the court without a jury on 2-7-58. The trial was concluded on 2-8-58, at which time the court handed down a verdict of not guilty with respect to the individual and dismissed the charge under 402 (a) (4) with respect to the article in the shipment of July 15.

The court rendered a verdict of guilty against the corporation with respect to the charge under 402 (a) (3) relating to the July 15 shipment, and to the charge under 402 (a) (4) relating to the June 24 shipment. The court fined the corporation \$1,000.

24252. Whisky. (F. D. C. No. 40759. S. No. 14-572 M.)

QUANTITY: 4 cases, each containing 6 ½-gal. btls., 9 cases, each containing 6 1-qt. btls., 1 case containing 12 ¼-qt. btls., and 6 ½-pt. btls. at University City, Mo.

SHIPPED: Prior to 6-14-57, from Owensboro, Ky.

RESULTS OF INVESTIGATION: Examination showed that the article was involved in a flood which occurred in the St. Louis area, and was submergd in flood waters while stored in a basement.

LIBELED: 10-1-57, E. Dist. Mo.; amended libel filed on 11-4-57.

CHARGE: 402 (a) (4)—while held for sale, the article was held under insanitary conditions whereby it may have become contaminated by filth due to having been submerged in flood waters.

DISPOSITION: 12-6-57. Consent—destruction.

24253. Coffee. (F. D. C. No. 40777. S. No. 85-123 M.)

QUANTITY: 17 cases, 24 cans each, at Lafayette, Ind.

SHIPPED: 7-14-57, from Cicero, Ill., by Plochman & Harrison.

LABEL IN PART: "Sky Main Drip Grind Coffee—One Pound Net."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 10-9-57, N. Dist. Ind.

CHARGE: 403 (e) (2)—when shipped, the label of the article failed to bear an accurate statement of the quantity of contents.

DISPOSITION: 12-9-57. Default—delivered for the use of a county institution.

*See also No. 24348.

CEREALS AND CEREAL PRODUCTS**BAKERY PRODUCTS**

24254. Bread. (F. D. C. No. 39382. S. Nos. 52-315/20 M.)

INFORMATION FILED: 5-8-57, S. Dist. N. Y., against Valklar Top Notch Bakers, Inc., Peekskill, N. Y., and Sam Appel, vice-president of the corporation.

SHIPPED: 6-22-56, from New York to Connecticut.

CHARGE: 402 (a) (3)—contained insect fragments (all counts), and rodent hairs (counts 4 and 6); and 402 (a) (4)—prepared and packed under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 9-16-57. Corporation—\$1,000 fine; individual—\$500 fine. The individual was also given a 6 months jail sentence, which was suspended, and placed on probation for 1 year. The conditions of the probation were that Mr. Appel was to leave the bakery business within 6 months, with the exception of accepting employment as a clerk in retail stores, and that the bakery was to be thoroughly cleaned and able to pass inspection by the Food and Drug Administration at the end of 30 days. On 11-15-57, upon motion for reduction of sentence, the court revoked the fines imposed against the defendants.

24255. Bread. (F. D. C. No. 40447. S. Nos. 61-409/11 M.)

INFORMATION FILED: 11-15-57, Dist. N. H., against Chester W. Karnacewicz, t/a Home Style Bakery, North Walpole, N. H.

SHIPPED: 5-15-57, from New Hampshire to Vermont.

LABEL IN PART: (Pkg.) "Honey Crust Home Style Bakery North Walpole, N. H. Weight 1 lb. Enriched," or "Light" [or "Dark"] Polish Rye Home Style Bakery N. Walpole, N. H. Weight 1 lb."

CHARGE: 402 (a) (3)—contained rodent feces, rodent hair fragments, cat hair fragments, and insect parts; and 402 (a) (4)—prepared under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-25-57. \$200 fine and probation for 6 months.

24256. Ryola Crisp Rye. (F. D. C. No. 40719. S. No. 78-225 M.)

QUANTITY: 23 cases, 12 12-oz. pkgs. each, at Kansas City, Mo.

SHIPPED: 8-5-57, from Minneapolis, Minn., by Ryola Co.

LIBELED: 8-28-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insects, insect fragments, and rodent hair fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-7-57. Default—destruction.

24257. Cheese and garlic croutons, toasted croutons, and garlic croutons.
(F. D. C. No. 40679. S. Nos. 73-506 M, 73-508/9 M.)

QUANTITY: 6 cases, 12 cans each, of cheese and garlic croutons, 7 cases, 12 cans each, of toasted croutons, and 7 cases, 12 cans each, of garlic croutons at Denver, Colo.

SHIPPED: Between 4-16-57 and 8-15-57, from Los Angeles, Calif., by Gerwin Foods Co.

LABEL IN PART: "Gerwin * * * French Toasted Cheese & Garlic Croutons * * * Net Wt. 5 oz." "Gerwin * * * Toasted Croutons * * * Net Wt. 4 oz." "Gerwin * * * Garlic Croutons * * * Net Wt. 4 oz."

LIBELED: 10-8-57, Dist. Colo.

CHARGE: 402 (a) (3)—contained rodent hair fragments; 402 (a) (4)—prepared and packed under insanitary conditions; and 403 (e) (2)—the labels of the articles failed to bear an accurate statement of the quantity of contents (examination showed that the articles were short weight).

DISPOSITION: 11-26-57. Default—consumption by animals.

FLOUR

24258. Flour and cornmeal. (F. D. C. No. 40595. S. Nos. 68-725/7 M, 68-754 M.)

QUANTITY: 298 100-lb. bags of flour and 60 100-lb. bags of cornmeal at Brooklyn, N. Y., in possession of Brooklyn Eastern Dist. Terminal.

SHIPPED: Between 3-14-57 and 6-15-57, from Evansville, Ind., Grand Forks, N. Dak., Decatur, Ill., and Morris, Minn.

LIBELED: 9-12-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent urine and insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-15-57. Default—destruction.

24259. Flour. (F. D. C. No. 40626. S. No. 68-724 M.)

QUANTITY: 44 100-lb. bags at Brooklyn, N. Y., in possession of Brooklyn Eastern Dist. Terminal.

SHIPPED: 2-27-57, from Louisville, Ky.

LIBELED: 9-12-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-15-57. Default—destruction.

24260. Flour. (F. D. C. No. 40632. S. Nos. 68-760 M, 78-741 M.)

QUANTITY: 60 100-lb. bags at Brooklyn, N. Y.

SHIPPED: 6-21-57, from Minneapolis, Minn.

LIBELED: 9-12-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-15-57. Default—destruction.

24261. Flour. (F. D. C. No. 40572. S. Nos. 71-550/5 M.)

QUANTITY: 47 100-lb. bags at Williston, N. Dak., in possession of City Elevator.

SHIPPED: 5-2-57 and 6-22-57, from Great Falls, Mont.

RESULTS OF INVESTIGATION: Examination showed that the article was contaminated with DDT.

LIBELED: 8-19-57, Dist. N. Dak.

CHARGE: 402 (a) (2)—while held for sale, the article contained an added poisonous or deleterious substance which was unsafe within the meaning of 406 since it was a substance not required in the production of the article and could be avoided by good manufacturing practice; and 402 (a) (4)—the article was held under insanitary conditions whereby it may have become contaminated with filth or may have been rendered injurious to health.

DISPOSITION: 10-9-57. Default—destruction.

24262. Flour. (F. D. C. No. 40413. S. No. 44-555 M.)

QUANTITY: 72 100-lb. bags at Brentwood, Mo.

SHIPPED: 6-7-57 and 7-8-57, from Abilene, Kans.

LIBELED: 8-13-57, E. Dist. Mo.

CHARGE: 402 (a) (3)—contained insect larvae, insect webbing, and excreta while held for sale.

DISPOSITION: 10-1-57. Default—destruction.

24263. Flour. (F. D. C. No. 40621. S. Nos. 68-758/9 M.)

QUANTITY: 308 100-lb. bags at Brooklyn, N. Y.

SHIPPED: 6-21-57 and 7-16-57, from Minneapolis, Minn., and Wichita, Kans.

LIBELED: 9-12-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-1-57. Consent—claimed by General Mills, Inc., and Atkinson Milling Co., Minneapolis, Minn., and denatured for use as animal feed.

24264. Flour. (F. D. C. No. 40559. S. No. 68-756 M.)

QUANTITY: 375 100-lb. bags at Brooklyn, N. Y.

SHIPPED: 4-29-57, from Winona, Minn.

LIBELED: 8-15-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-26-57. Consent—claimed by Bay State Milling Co., Winona, Minn., and denatured for use as animal feed.

24265. Flour. (F. D. C. No. 40620. S. No. 49-032 M.)

QUANTITY: 32 100-lb. bags at Wauconda, Ill., in possession of Lake County Cookie Co., Inc.

SHIPPED: 3-7-57, from Minneapolis, Minn.

LIBELED: 8-28-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: On 9-25-57, a default decree of condemnation and destruction was entered. On 12-13-57, the United States Attorney filed a petition for a rule upon Jim King to show cause why he should not be punished for contempt of court with respect to the removal and conversion of the condemned flour in violation of the terms of the decree, which ordered that the flour be destroyed by the United States Marshal. The matter came on for hearing and on 2-13-57, King was found guilty and fined \$50.

24266. Flour. (F. D. C. No. 40389. S. Nos. 56-522/3 M.)

QUANTITY: 17 50-lb. bags and 3 100-lb. bags at Grand Rapids, Minn.

SHIPPED: 2-4-57 and 5-24-57 from Grand Forks, N. Dak.

LIBELED: 8-3-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-18-57. Default—denatured for use as animal feed.

24267. Flour, egg noodles, raisin bran cereal, macaroni, lasagna dumplets, spaghetti, and rolled oats. (F. D. C. No. 40664. S. Nos. 43-741 M, 43-743/51 M, 44-389/94 M.)

QUANTITY: 28 50-lb. bags and 63 25-lb. bags of flour; 10 cases, 24 10-oz. pkgs. each, and 11 cases, 12 10-oz. pkgs. each, of egg noodles; 3 cases, 12 11-oz. pkgs. each, of raisin bran cereal; 3 cases, 48 7-oz. pkgs. each, 3 cases, 24 7-oz. pkgs. each, 3 cases, 12 6-oz. pkgs. each, 13 cases, 24 6-oz. pkgs. each, and 7 cases, 24 16-oz. pkgs. each, of macaroni; 5 cases, 12 8-oz. pkgs. each, of lasagna dumplets; 20 cases, 12 2-lb. 8-oz. pkgs. each, of rolled oats; and 10 cases, 24 7-oz. pkgs. each, of spaghetti at Fort Smith, Ark.

SHIPPED: Between 5-21-56 and 7-22-57, from Hutchinson, Kans., Omaha, Nebr., Kansas City, Mo., Louisville, Ky., and Cedar Rapids, Iowa.

LIBELED: 9-27-57, W. Dist. Ark.

CHARGE: 402 (a) (3)—the flour contained rodent urine and the other articles contained insects while held for sale.

DISPOSITION: 11-13-57. Default—consumption by animals.

24268. Flour. (F. D. C. No. 40718. S. Nos. 81-913/6 M.)

QUANTITY: 280 10-lb. bags, 234 25-lb. bags, and 3 50-lb. bags at New Orleans, La.

SHIPPED: Between 6-24-57 and 7-10-57, from Fort Worth, Tex.

LIBELED: 8-23-57, E. Dist. La.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-3-57. Default—destruction.

24269. Enriched flour. (Inj. No. 329.)

COMPLAINT FOR INJUNCTION FILED: 12-31-57, Dist. Nebr., against the Lexington Mill & Elevator Co., a corporation, Lexington, Nebr.

CHARGE: The complaint alleged that the defendant had been causing to be introduced and to be delivered for introduction into interstate commerce, flour, invoiced as "Enriched" flour, which was adulterated and misbranded as follows: 402 (b) (1)—valuable constituents, thiamine, riboflavin, niacin, and iron, had been in part omitted from the flour; and 403 (g) (1)—the article purported to be and was represented as enriched flour, and it failed to conform to the definition and standard of identity for enriched flour since it contained per pound less than 2 milligrams of thiamine, less than 1.2 milligrams of riboflavin, less than 16 milligrams of niacin, and less than 13 milligrams of iron.

The complaint further alleged that the defendant was well aware that its activities were in violation of the law; that on 3 different occasions in the past 12 years, samples of the defendant's flour had been found deficient in enrichment ingredients; and that 3 different hearings had been afforded the defendant since 1945, for violations of the Act.

DISPOSITION: 12-31-57. The defendants having consented, the court entered a decree of permanent injunction enjoining and restraining the defendant against commission of the acts complained of.

24270. Flour, rice, and cranberry beans. (F. D. C. No. 40446. S. Nos. 55-707 M, 65-433/6 M.)

INFORMATION FILED: 12-2-57, N. Dist. Ohio, against Eagle Wholesale Grocery Co., a corporation, Cleveland, Ohio.

ALLEGED VIOLATION: Between 8-16-56 and 5-3-57, the defendant caused quantities of flour, rice, and cranberry beans, while held for sale after shipment in interstate commerce, to be placed in a building that was accessible to rodents and to be exposed to contamination by rodents, which acts resulted in the articles being adulterated.

CHARGE: 402 (a) (3)—contained rodent urine and rodent excreta; and 402 (a) (4)—held under insanitary conditions.

PLEA: Guilty.

DISPOSITION: 12-13-57. \$1,500 fine.

24271. Enriched flour. (F. D. C. No. 40137. S. No. 55-420 M.)

INFORMATION FILED: 12-12-57, Dist. Nebr., against Lexington Mill & Elevator Co., a corporation, Lexington, Nebr.

SHIPPED: 10-11-56, from Nebraska to Ohio.

RESULTS OF INVESTIGATION: The article was unlabeled, but was invoiced as "Enriched" flour.

CHARGE: 402 (b) (1)—valuable constituents, thiamine, riboflavin, niacin, and iron, had been in part omitted from the article when shipped; and 403 (g) (1)—the article purported to be and was represented as enriched flour, and it failed to conform to the definition and standard of identity for enriched flour since it contained per pound less than 2 milligrams of thiamine, less than 1.2 milligrams of riboflavin, less than 16 milligrams of niacin, and less than 13 milligrams of iron.

PLEA: Nolo contendere.

DISPOSITION: 12-12-57. \$500 fine, plus costs.

MACARONI AND NOODLE PRODUCTS*

24272. Egg noodles. (F. D. C. No. 40692. S. Nos. 83-201/4 M.)

QUANTITY: 166 1-lb. bags at Cincinnati, Ohio.

SHIPPED: Between 1-1-57 and 6-21-57, from Milwaukee, Wis., and Chicago, Ill.

LIBELED: 10-10-57, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-25-57. Default—consumption by animals.

24273. Egg noodles. (F. D. C. No. 40751. S. No. 55-387 M.)

QUANTITY: 36 10-lb. ctns. at Zanesville, Ohio.

SHIPPED: 8-3-57 and 8-23-57, from Carnegie, Pa.

LIBELED: 9-19-57, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-16-57. Default—destruction.

*See also No. 24267.

24274. Egg noodles. (F. D. C. No. 40543. S. Nos. 48-767/9 M.)

QUANTITY: 36 10-lb. cases of fine egg noodles, 90 10-lb. boxes of medium egg noodles, and 20 10-lb. boxes of wide egg noodles at Royal Oak, Mich.

SHIPPED: 5-24-57 and 7-8-57, from Steger, Ill., by G. D'Amico Macaroni Co.

LABEL IN PART: (Cases and boxes) "Mamma Mia Brand * * * Semolina Fine Egg Noodles," "Mamma Mia * * * Med. Nested Egg Noodles," and "Mamma Mia Brand * * * Semolina Wide Egg Noodles."

LIBELED: 8-1-57, E. Dist. Mich.; amended libel on 9-3-57.

CHARGE: 402 (a) (3)—contained insects, insect parts, and rodent hairs; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 1-27-58 and 2-14-58. Default—destruction.

24275. Elbow spaghetti. (F. D. C. No. 40781. S. No. 48-585 M.)

QUANTITY: 14 cases, 20 1-lb. pkgs. each, at Grand Rapids, Mich.

SHIPPED: 9-17-57, from Schiller Park, Ill., by Galioto Bros. & Co.

LABEL IN PART: (Pkg.) "Food Club Macaroni Products."

LIBELED: 10-8-57, W. Dist. Mich.

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 11-14-57. Default—destruction.

MISCELLANEOUS CEREALS AND CEREAL PRODUCTS*

24276. Barley. (F. D. C. No. 40255. S. No. 71-191 M.)

QUANTITY: 91,650 lbs. at Minneapolis, Minn.

SHIPPED: 5-6-57, from Cooperstown, N. Dak., by Cooperstown Coop. Association.

LIBELED: 5-18-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on barley has been prescribed by regulations.

DISPOSITION: 6-10-57. Consent—claimed by Cooperstown Coop. Association. Segregated; 12,510 lbs. destroyed.

24277. Oats. (F. D. C. No. 40241. S. No. 43-194 M.)

QUANTITY: 1 railroad car at East St. Louis, Ill.

SHIPPED: 4-17-57, from Pontiac, Ill., by McDowell Farmers Elevator Co. The oats were consigned to St. Louis, Mo.

LIBELED: 5-3-57, E. Dist. Ill.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on oats has been prescribed by regulations.

DISPOSITION: 5-17-57. Default—destruction.

*See also Nos. 24267, 24270.

24278. Rice and beans. (F. D. C. No. 40258. S. Nos. 65-433/6 M.)

QUANTITY: 103 25-lb. bags of rice and 8 100-lb. bags of beans at Cleveland, Ohio, in possession of Eagle Wholesale Grocery Co.

SHIPPED: Between 2-11-57 and 4-16-57, from De Witt and Stuttgart, Ark., and Saginaw, Mich.

LIBELED: 5-17-57, N. Dist. Ohio.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-18-57. Default—destruction.

24279. Rice. (F. D. C. No. 40219. S. Nos. 39-291/3 M.)

QUANTITY: 5 cases, each containing 12 3-lb. pkgs., 19 cases, each containing 18 1-lb. pkgs., and 9 cases, each containing 18 2-lb. pkgs. at Atlanta, Ga., in possession of Massey & Fair, Inc.

SHIPPED: Between 2-26-54 and 4-19-54, from Houston, Tex., and Stuttgart, Ark.

LIBELED: 5-22-57, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 6-28-57. Default—destruction.

24280. Oats. (F. D. C. No. 40392. S. No. 65-574 M.)

QUANTITY: 100,000 lbs. at Cincinnati, Ohio.

SHIPPED: 7-9-57, from Latham, Ill., by De Wein Grain Co.

LIBELED: 7-23-57, S. Dist. Ohio.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on oats has been prescribed by regulations.

DISPOSITION: 7-26-57. Consent—claimed by the Early & Daniel Co., Cincinnati, Ohio, and denatured for use as seed.

24281. Wheat. (F. D. C. No. 40282. S. No. 71-101 M.)

QUANTITY: 72,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-4-57, from Fort Pierre, S. Dak., by Stanley County Coop. Marketing Association.

LIBELED: 6-24-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 7-9-57. Consent—claimed by Stanley County Coop. Marketing Association, and denatured for use as animal feed.

24282. Wheat. (F. D. C. No. 40274. S. No. 71-202 M.)

QUANTITY: 102,000 lbs. at Minneapolis, Minn.

SHIPPED: 5-21-57, from Bristol, S. Dak., by Farmers Equity Exchange.

LIBELED: 6-14-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 7-9-57. Consent—claimed by Farmers' Union Grain Terminal Association, St. Paul, Minn. Segregated; 8,340 lbs. denatured for use as animal feed.

24283. Wheat. (F. D. C. No. 40260. S. No. 79-668 M.)

QUANTITY: 89,400 lbs. at Minneapolis, Minn.

SHIPPED: 5-9-57, from Miles City, Mont., by Occident Elevator Co.

LIBELED: 5-22-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 7-9-57, Consent—claimed by Occident Elevator, Division of Russell-Miller Co. Segregated; 13,320 lbs. denatured for use as animal feed.

24284. Wheat. (F. D. C. No. 40239. S. Nos. 58-663/4 M.)

QUANTITY: 40,000 lbs. at Ogden, Utah.

SHIPPED: 4-25-57, from Parkinson, Idaho, by C. A. Rooney.

LIBELED: 5-13-57, Dist. Utah.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, a mercurial compound, which is unsafe within the meaning of 408 (a) since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 7-30-57. Consent—claimed by C. A. Rooney, Rexburg, Idaho, and denatured for use as seed wheat.

24285. Wheat. (F. D. C. No. 40366. S. No. 71-488 M.)

QUANTITY: 81,720 lbs. at Minneapolis, Minn.

SHIPPED: 6-12-57, from Rockham, S. Dak., by Rockham Farmer's Elevator Co.

LIBELED: 7-1-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 8-5-57. Consent—claimed by Rockham Farmer's Elevator Co. Segregated; 11,110 lbs. denatured for use as animal feed.

24286. Wheat. (F. D. C. No. 40376. S. No. 79-736 M.)

QUANTITY: 121,800 lbs. at Minneapolis, Minn.

SHIPPED: 6-22-57, from Havre, Mont., by Farmers Grain Exchange.

LIBELED: 7-19-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 8-6-57. Consent—claimed by Great Plains Supply Co., St. Paul, Minn. Segregated; 12,280 lbs. destroyed.

24287. Wheat. (F. D. C. No. 40374. S. No. 80-025 M.)

QUANTITY: 105,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-28-57, from Leola, S. Dak., by Leola Equity Exchange.

LIBELED: 7-19-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 8-6-57. Consent—claimed by Farmer's Union Grain Terminal Association, St. Paul, Minn. Segregated; 7,370 lbs. denatured for use as animal feed.

24288. Wheat. (F. D. C. No. 40375. S. No. 79-737 M.)

QUANTITY: 108,000 lbs. at Minneapolis, Minn.

SHIPPED: 6-29-57, from Leola, S. Dak., by Leola Equity Exchange.

LIBELED: 7-19-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained rodent pellets when shipped.

DISPOSITION: 8-6-57. Consent—claimed by Farmer's Union Grain Terminal Association, St. Paul, Minn. Segregated; 6,590 lbs. denatured for use as animal feed.

24289. Wheat. (F. D. C. No. 40396. S. No. 79-742 M.)

QUANTITY: 32,860 lbs. at Minneapolis, Minn.

SHIPPED: 7-19-57, from Reville, S. Dak., by Farmers Coop. Elevator Co.

LIBELED: 8-5-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 8-7-57. Consent—claimed by Farmers Coop. Elevator Co., and destroyed.

24290. Wheat. (F. D. C. No. 40397. S. No. 80-142 M.)

QUANTITY: 102,000 lbs. at Minneapolis, Minn.

SHIPPED: 7-10-57, from Linton, N. Dak., by McCarthy Bros.

LIBELED: 8-5-57, Dist. Minn.

CHARGE: 402 (a) (2)—the article was a raw agricultural commodity and, when shipped, contained a pesticide chemical, namely, a mercurial compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on wheat has been prescribed by regulations.

DISPOSITION: 8-8-57. Consent—claimed by Linton Farmers Elevator Co., Linton, N. Dak. Segregated; 9,080 lbs. destroyed.

24291. Unpopped popcorn. (F. D. C. No. 40720. S. No. 42-089 M.)

QUANTITY: 37 cases, 12 2-lb. pkgs. each, at Jamestown, N. Y.

SHIPPED: 8-13-57, from Anderson, Ind., by Better Taste Popcorn Co.

LIBELED: 8-29-57, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 9-30-57. Default—destruction.

24292. Unpopped popcorn. (F. D. C. No. 40714. S. No. 82-036 M.)

QUANTITY: 39 cases, 24 10-oz. cans each, at New Orleans, La.

SHIPPED: 8-2-56, from Cedar Rapids, Iowa.

LIBELED: 8-21-57, E. Dist. La.

CHARGE: 402 (a) (3)—contained insect-damaged and moldy popcorn while held for sale.

DISPOSITION: 10-15-57. Default—destruction.

24293. Sweet dough base. (F. D. C. No. 40711. S. No. 71-557 M.)

QUANTITY: 84 100-lb. bags at Minot, N. Dak.

SHIPPED: 7-9-57, from Minneapolis, Minn.

LIBELED: 8-21-57, Dist. N. Dak.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-6-57. Consent—destruction.

24294. Corn muffin mix and piecrust mix. (F. D. C. No. 40684. S. Nos. 76-523/4 M.)

QUANTITY: 7 cases, 6 5-lb. bags each, of corn muffin mix and 8 cases, 6 5-lb. bags each, of piecrust mix at New London, Conn.

SHIPPED: Between 5-9-57 and 8-27-57, from Providence, R. I.

LIBELED: 10-9-57, Dist. Conn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-11-57. Default—destruction.

CHOCOLATE PRODUCTS AND CONFECTIONERY

24295. Cocoa powder. (F. D. C. No. 39366. S. No. 29-536 M.)

INFORMATION FILED: 1-28-57, E. Dist. N. Y., against Ralph A. Newton, Brooklyn, N. Y.

ALLEGED VIOLATION: On 10-17-55, while a number of pressed cakes of a cocoa by-product, to be used as animal feed, were being held for sale by the defendant after shipment in interstate commerce, the defendant caused the cocoa by-product to be ground and packed into 50-pound bags labeled as pure cocoa, which acts of grinding and packing resulted in the article being misbranded.

LABEL IN PART: (Cakes, prior to grinding) "Expeller Cake [Cocoa Press Cake] containing not more than 15% butter fat having value only for livestock feed mixtures or fertilizer." (Bag, after grinding) "Pure Cocoa Pow."

CHARGE: 403 (g) (1)—the article, while held for sale, purported to be and was represented as cocoa, a food for which a definition and standard of identity has been prescribed by regulations, and it failed to conform to the definition and standard since it contained more cocoa shell than is present in cocoa.

PLEA: Guilty.

DISPOSITION: 3-11-57. \$500 fine.

24296. Cocoa powder. (F. D. C. No. 40038. S. Nos. 58-135/6 M.)

QUANTITY: 2 50-lb. bags and 28 140-lb. bags at Iola, Kans.

SHIPPED: From Chicago, Ill., about 2 years prior to the filing of the libel.

LIBELED: 3-11-57, Dist. Kans.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 4-16-57. Default—destruction.

24297. Chocolate-flavored sirup (3 seizure actions). (F. D. C. Nos. 40048, 40049, 40050. S. Nos. 33-653 M, 58-053 M, 58-143 M.)

QUANTITY: 19 cases, 12 2½-lb. jars each, at Warrensburg, St. Joseph, and Kansas City, Mo.

SHIPPED: 1-25-57 and 2-20-57, from Iola, Kans., by Sifers Chocolate Syrup Co., Inc.

LABEL IN PART: (Jar) "New Sifers Homogenized Chocolate Flavored Syrup."

LIBELED: 3-14-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insect larvae, insects, insect parts, and rodent hairs when shipped.

DISPOSITION: 5-2-57. Default—destruction.

24298. Chocolate-flavored sirup. (F. D. C. No. 40047. S. No. 33-652 M.)

QUANTITY: 22 12-jar cases at Clinton, Mo.

SHIPPED: 2-20-57, from Iola, Kans., by Sifers Chocolate Syrup Co., Inc.

LABEL IN PART: (Jar) "New Sifers Homogenized Chocolate Flavored Syrup."

LIBELED: 3-14-57, W. Dist. Mo.

CHARGE: 402 (a) (3)—contained insect parts and rodent hairs when shipped.

DISPOSITION: 5-2-57. Default—destruction.

24299. Candy. (F. D. C. No. 40437. S. Nos. 34-455 M, 34-472 M.)

INFORMATION FILED: 11-12-57, W. Dist. Mo., against Hill Candy Co., Inc., Kansas City, Mo., and Chester K. Hill, president.

SHIPPED: Between 1-30-57 and 5-7-57, from Missouri to Nebraska.

LABEL IN PART: "Monkey Bar Net Wt. 1¼ oz. Hill Candy Company 423 Delaware, Kansas City, Mo." and "Pecan Divinity 9 Oz. Or Over Hill Candy Co., Inc. Kansas City, Mo. Ingredients Sugar, Corn Syrup, Egg Whites, Invert Sugar, Convertit, Nuts and Artificial Flavoring."

CHARGE: 402 (a) (3)—all candy (counts 1 and 2) contained rodent hair fragments; 402 (a) (4)—all candy (counts 1 and 2) was prepared under insanitary conditions; 402 (b) (2)—(count 2) a product in which the nut ingredients consisted of peanuts and pecans had been substituted for a product containing pecans as its sole nut ingredient, which the pecan divinity candy was represented to be; 403 (a)—(count 3) the label statement "Pecan Divinity * * * Ingredients * * * Nuts" was false and misleading since such statement represented and suggested that the nut ingredient contained in the pecan divinity candy consisted solely of pecans, whereas, the nut ingredient contained in such candy consisted of pecans and peanuts; 403 (i) (2)—(count 3) the label of the pecan divinity candy did not bear the common or usual name of each ingredient; and 403 (k)—(count 3) the pecan divinity candy contained artificial coloring, and it did not bear labeling stating that fact.

PLEA: Not guilty.

DISPOSITION: The case came on for trial before the court and jury on 1-20-58, and at the conclusion of the trial the jury returned a verdict of guilty on counts 1 and 2 of the information, and a verdict of not guilty with respect to count 3. On 2-7-58, the court fined the corporation \$500, plus costs, and placed the individual on probation for 1 year.

DAIRY PRODUCTS**BUTTER**

24300. Butter. (F. D. C. No. 40507. S. No. 84-804 M.)

QUANTITY: 114 64-lb. boxes at Chicago, Ill.

SHIPPED: 8-1-57, from Orleans, Nebr., by Farmers Equity Coop. Creamery Association, Inc.

LIBELED: 8-15-57, N. Dist. Ill.

CHARGE: 402 (b) (2)—a product containing less than 80 percent by weight of milk fat had been substituted for butter when shipped.

DISPOSITION: 8-28-57. Consent—claimed by National Cheese Co., Chicago, Ill., and reworked.

24301. Butter. (F. D. C. No. 40497. S. No. 54-998 M.)

QUANTITY: 13 64-lb. boxes at Cincinnati, Ohio.

SHIPPED: 7-30-57 and 7-31-57, from Indiana and Kentucky.

RESULTS OF INVESTIGATION: The shipment described above consisted of cream which was used in the manufacture of the butter under seizure.

LIBELED: 8-2-57, S. Dist. Ohio.

CHARGE: 402 (a) (3)—contained a decomposed or filthy substance when shipped.

DISPOSITION: 9-6-57. Default—the article was sold, to be converted into grease for use other than human consumption.

24302. Butter. (F. D. C. No. 40508. S. No. 55-048 M.)

QUANTITY: 51 65-lb. tubs at Louisville, Ky.

SHIPPED: 8-6-57, from Vincennes, Ind., by Tip Top Creamery Co.

LIBELED: 8-16-57, W. Dist. Ky.

CHARGE: 402 (a) (3)—when shipped, the article contained a decomposed substance by reason of having been made from decomposed cream.

DISPOSITION: 9-11-57. Consent—claimed by Beatrice Foods Co., Chicago, Ill., and converted into butter oil.

CHEESE

24303. Cheese. (F. D. C. No. 40648. S. Nos. 84-708/16 M.)

QUANTITY: 18 10½-lb. units, 28 11-lb. units, 20 20-lb. units, 1 25-lb. unit, 8 26-lb. units, 6 45-lb. units, 4 50-lb. units, 5 ctns. containing a total of 14 4-lb. units, and 10 cases, each containing 19 10-lb. units of cheese at Chicago, Ill., in possession of Fulton Market Cold Storage.

SHIPPED: Between 10-8-56 and 6-10-57, and on other unknown dates, from Plymouth and Cumberland, Wis., and New York, N. Y.

LIBELED: 9-16-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained insects; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 11-19-57. Consent—claimed by Rubinelli, Inc., Chicago, Ill. Segregated; 1,473 lbs. destroyed.

24304. Cheese. (F. D. C. No. 40670. S. Nos. 76-268/9 M.)

QUANTITY: 49 bbls., each bbl. weighing about 250 lbs. and containing a number of 1½-lb. blocks of dry, white, skimmed milk cheese for grating at Boston, Mass.

SHIPPED: 7-9-57 and 8-13-57, from Ellsworth, Maine, by Gloria Cheese Co.

LIBELED: 9-30-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained fly parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 12-9-57. Default—destruction.

24305. Cheese. (F. D. C. No. 40671. S. Nos. 76-268/9 M.)

QUANTITY: 35 bbls., each bbl. weighing approximately 250 lbs. and containing a number of 1½-lb. blocks of dry, white, skimmed milk cheese for grating at Somerville, Mass.

SHIPPED: 7-9-57, from Ellsworth, Maine, by Gloria Cheese Co.

LIBELED: 9-30-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained fly parts; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 12-9-57. Default—destruction.

EGGS

24306. Frozen eggs. (F. D. C. No. 40662. S. No. 64-438 M.)

QUANTITY: 105 30-lb. cans at Du Bois, Pa.

SHIPPED: Between 9-4-56 and 10-19-56, by Beaver Meadow Creamery, Inc., from Olean, N. Y.

RESULTS OF INVESTIGATION: The above described shipment consisted of shell eggs which, upon receipt at Du Bois, were broken and packed into cans for freezing. The shell eggs had developed mold while in storage at Olean, N. Y.

LIBELED: 9-30-57, W. Dist. Pa.; amended libel on 10-25-57.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 10-25-57. Default—destruction.

24307. Frozen eggs. (F. D. C. No. 40649. S. No. 78-709 M.)

QUANTITY: 200 30-lb. cans at Brooklyn, N. Y.

SHIPPED: 7-24-57, from Elizabeth, N. J., by Mountainside Butter & Egg Co.

LIBELED: 9-24-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 2-11-58. Consent—claimed by Manhattan Egg Co., New York, N. Y. Segregated; 163 cans denatured.

24308. Frozen eggs and frozen egg product (3 seizure actions). (F. D. C. Nos. 40637, 40647, 40650. S. Nos. 69-245 M, 78-707/8 M.)

QUANTITY: 205 30-lb. cans of an egg product, and 809 30-lb. cans of frozen eggs at Brooklyn, N. Y.

SHIPPED: Between 8-1-57 and 8-15-57, from Elizabeth, N. J., by Mountainside Butter & Egg Co.

LABEL IN PART: (Lids) "Goldtex * * * Yolks Whites Stabilizing syrup, water gum and salts * * * 30 lbs. Net," "White Eggs packed for Quality Egg Co., 171 Duane Street, New York."

LIBELED: 9-16-57 and 9-24-57, E. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed eggs when shipped.

DISPOSITION: 2-11-58 and 2-14-58. Consent—claimed by Quality Egg Co. Segregated; 828 cans destroyed.

FEEDS AND GRAINS

24309. Poultry feed. (F. D. C. No. 40608. S. Nos. 61-719/20 M.)

INFORMATION FILED: 3-14-58, N. Dist. Ohio, against St. Albans Grain Co., a corporation, Toledo, Ohio.

SHIPPED: 12-20-56, from Ohio to West Virginia.

LABEL IN PART: (Bag) "Wirthmore Grow & Egg Mash * * * Manufactured for Charles M. Cox Co., Boston, Mass." "Wirthmore Hi-Ener-G Breeder A Complete Ration * * * Manufactured for Charles M. Cox Co., Boston, Mass."

CHARGE: 402 (a) (2)—when shipped, the article contained an added deleterious substance, Nicarbazin, which is unsafe within the meaning of 406 (a) since it is a substance not required in the production of the article and can be avoided by good manufacturing practices.

PLEA: Nolo contendere.

DISPOSITION: 3-14-58. \$200 fine.

24310. Alfalfa meal. (F. D. C. No. 40693. S. Nos. 17-549/50 M.)

QUANTITY: 500 50-lb. bags and 700 50-lb. unlabeled bags at Baltimore, Md.

SHIPPED: 8-6-57 and 8-21-57, from Toledo, Ohio, by Cummings & Schooler Co.

LABEL IN PART: (500-bag lot) "Westco Dehydrated Alfalfa Meal 17% * * * 100 Lbs. Net * * * Crude Protein Not less than 17%."

LIBELED: 10-14-57, Dist. Md.

CHARGE: 402 (b) (1)—a valuable constituent, protein, had been in part omitted from the 500-bag lot when shipped; 403 (e) (1)—when shipped, the 700-bag lot failed to bear a label containing the name and place of business of the manufacturer, packer, or distributor; 403 (e) (2)—both lots failed to bear a label containing an accurate statement of the quantity of contents, since the 500-bag lot contained less than the declared weight and the 700-bag lot did not bear any label containing a statement of the quantity of contents; and 403 (i) (1)—the 700-bag lot failed to bear a label containing the common or usual name of the article, namely, "17% Dehydrated Alfalfa Meal."

DISPOSITION: 10-24-57. Consent—claimed by Cummings & Schooler Co., and relabeled.

24311. Wettable bone flour with vitamin D₂. (F. D. C. No. 40385. S. No. 56-600 M.)

QUANTITY: 14 cases, 12 1-lb. ctns. each, at St. Paul, Minn.

SHIPPED: 3-27-57, from Kansas City, Mo., by Veterinary Laboratories, Inc.

RESULTS OF INVESTIGATION: Analysis showed that the article was 50 percent deficient in the declared amount of vitamin D₂.

LIBELED: 8-5-57, Dist. Minn.

CHARGE: 402 (b) (1)—a valuable constituent, vitamin D₂, had been in part omitted or abstracted from the article while held for sale; and 403 (a)—the label statement "625,000 U. S. P. Units of Vitamin D-2" was false and misleading.

DISPOSITION: 9-19-57. Default—destruction.

FISH AND SHELLFISH

24312. Frozen haddock fillets. (F. D. C. No. 40529. S. Nos. 75-937 M, 75-940 M.)

QUANTITY: 70 10-lb. ctns. at Boston, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessel "Patty Jean" in the waters of the Atlantic Ocean outside the limits of Massachusetts, on 7-8-57.

LIBELED: 7-22-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 8-22-57. Default—consumption by animals.

24313. Frozen haddock fillets. (F. D. C. No. 40354. S. No. 75-967 M.)

QUANTITY: 22 ctns., 10 5-lb. boxes each, at Boston, Mass.

SHIPPED: The fillets were from fish caught by the fishing vessels "Bonnie Breaker" and "Nautilus" in the Atlantic Ocean outside the limits of Massachusetts and unloaded at Boston, Mass., on 6-19-57 and 6-20-57.

LIBELED: 7-5-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained decomposed fish when shipped.

DISPOSITION: 9-4-57. Consent—claimed by Coral Sea Fisheries, Boston, Mass. Segregated; 211 lbs. destroyed.

24314. Whitefish and inconnus fish. (F. D. C. No. 40643. S. No. 72-564 M.)

QUANTITY: 58 boxes, containing a total of 3,140 lbs. of whitefish and inconnus fish at Chicago, Ill.

SHIPPED: 8-27-57, from Winnipeg, Canada, by Carter Fisheries, Keystone Fisheries, and Saskatchewan Fish Marketing Service.

LIBELED: 9-16-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 10-10-57. Default—destruction.

24315. Fresh whitefish. (F. D. C. No. 40673. S. No. 72-565 M.)

QUANTITY: 24 60-lb. boxes at Chicago, Ill.

SHIPPED: 9-14-57, from Winnipeg, Canada, by Canadian Fish Producers, Ltd.

LABEL IN PART: "Product of Canada Island Lake Cert."

LIBELED: 9-30-57, N. Dist. Ill.

CHARGE: 402 (a) (3)—contained parasitic cysts when shipped.

DISPOSITION: 2-21-58. Default—destruction.

24316. Canned sardines. (F. D. C. Nos. 40746, 40747. S. Nos. 76-054/5 M.)

QUANTITY: 24 cases, each containing 100 cans, at St. Johnsbury, Vt.

SHIPPED: Between 1-2-57 and 3-8-57, from Lubec, Maine, by R. J. Peacock Canning Co.

LABEL IN PART: (Can) "Realm * * * American Sardines * * * Net Weight 3¼ ozs."

LIBELED: 9-20-57, Dist. Vt.

CHARGE: 402 (a) (3)—contained decomposed sardines when shipped.

DISPOSITION: 3-25-58. Default—destruction.

24317. Canned shrimp. (F. D. C. Nos. 40743, 40744. S. Nos. 25-040 M, 74-465 M.)

QUANTITY: 9 cases, 24 4½-oz. cans each, and 9 cases, 48 4½-oz. cans each, at Oswego and Salem, Oreg.

SHIPPED: 6-18-57 and 7-21-57, from Westport, Wash., by Kaakinen Fish Co.

LABEL IN PART: (Can) "Sea Haven Brand Shrimp" and "Pacific Brand * * * Cocktail Shrimp."

LIBELED: On or about 10-7-57, Dist. Oreg.

CHARGE: 402 (b) (3)—when shipped, inferiority had been concealed by the addition of artificial color; 403 (h) (2)—the article fell below the standard of fill of container for canned, wet pack shrimp in nontransparent containers, since the containers of the article were so filled that the cut-out weight of shrimp taken from each can was less than 64 percent of the water capacity of the container, the minimum permitted by the standard, and the labels of the article failed to bear a statement that the article fell below such standard; and 403 (k)—the article contained artificial color, and failed to bear labeling stating that fact.

DISPOSITION: 11-26-57. Default—delivered to public institutions.

24318. Processed crabmeat. (F. D. C. No. 40708. S. No. 53-696 M.)

QUANTITY: 146 cases, 24 6½-oz. cans each, at Bayou La Batre, Ala.

SHIPPED: 8-1-57, from Pascagoula, Miss., by Pascagoula Crab Co.

LABEL IN PART: (Can) "Dunbar Brand American Crab Meat."

RESULTS OF INVESTIGATION: The shipment described above consisted of fresh crabmeat which had been prepared and packed by the Pascagoula Crab Co., under insanitary conditions.

LIBELED: 8-16-57, S. Dist. Ala.

CHARGE: 402 (a) (4)—prepared and packed under insanitary conditions.

DISPOSITION: 9-17-57. Default—destruction.

24319. Oysters. (F. D. C. No. 40702. S. No. 81-337 M.)

QUANTITY: 1 barrel, containing 160 cans at St. Petersburg, Fla.

SHIPPED: 10-7-57, from Crisfield, Md., by L. R. Carson, Inc.

LABEL IN PART: (Can) "One Pint * * * Quality Brand Seafood Oysters Packed by L. R. Carson, Inc., Crisfield, Maryland MD-243."

LIBELED: 10-11-57, S. Dist. Fla.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped, and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 11-12-57. Default—destruction.

24320. Oysters. (F. D. C. No. 40703. S. No. 81-033 M.)

QUANTITY: 1 barrel, containing 64 cans at Rome, Ga.

SHIPPED: 10-7-57, from Cambridge, Md., by The Todd Co.

LABEL IN PART: (Can) "The Todd Co. Oysters, Cambridge, Md. Keep Iced One Pint * * * MD. 128 Fresh Raw Oysters."

LIBELED: 10-11-57, N. Dist. Ga.

CHARGE: 402 (b) (2)—water had been substituted in part for oysters when shipped; and 402 (b) (4)—water had been added to the oysters and mixed and packed with them so as to increase their bulk or weight and reduce their quality.

DISPOSITION: 11-12-57. Default—consumption by animals.

24321. Caviar. (F. D. C. No. 40683. S. No. 68-739 M.)

QUANTITY: 951 cases, 24 3½-oz. jars each, at New York, N. Y.

SHIPPED: 9-5-57, from Durban, South Africa. This was a return shipment.

LIBELED: 10-22-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 11-22-57. Default—destruction.

FRUITS AND VEGETABLES

CANNED FRUIT

24322. Canned banana puree. (F. D. C. No. 40700. S. No. 68-619 M.)

QUANTITY: 27 cases, 6 10-lb. cans each, at New York, N. Y.

SHIPPED: 6-8-56, from Costa Rica.

LIBELED: 10-22-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained decomposed banana puree while held for sale.

DISPOSITION: 11-22-57. Default—destruction.

DRIED FRUIT

24323. Seedless raisins. (F. D. C. No. 40685. S. No. 76-502 M.)

QUANTITY: 18 30-lb. ctns. at Southington, Conn.

SHIPPED: 8-30-57, from San Francisco, Calif.

LIBELED: 10-10-57, Dist. Conn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-7-57. Default—destruction.

FRESH FRUIT

24324. Fresh blueberries. (F. D. C. No. 40799. S. No. 76-233 M.)

QUANTITY: 3 crates, 24 1-qt. boxes each, at Boston, Mass.

SHIPPED: 8-29-57, from Harrington, Maine, by Charles Taylor & Son.

LABEL IN PART: "Pine State Fancy Maine Blueberries."

RESULTS OF INVESTIGATION: Examination showed that the article contained maggots.

LIBELED: 8-29-57, Dist. Mass.

CHARGE: 402 (a) (3)—contained a filthy substance when shipped.

DISPOSITION: 9-12-57. Default—destruction.

VEGETABLES AND VEGETABLE PRODUCTS*

24325. Dried pink beans and black-eyed peas. (F. D. C. No. 39982. S. Nos. 15-739/40 M, 27-212 M, 28-235/6 M.)

INFORMATION FILED: 5-22-57, N. Dist. Calif., against Collins & Story, a partnership, Robbins, Calif., and George T. Story and Philip R. Collins, partners.

SHIPPED: Between 2-28-56 and 3-6-56, from California to Puerto Rico and Alabama.

LABEL IN PART: (Bag) "Recl. Pinks 100 Lbs. When Pkd. K. B. * * * San Juan," and "Blackeyes 100 Lbs. When Packed Grown by a Member of Bean Growers Ass'n of Calif. Sacramento, Calif."

CHARGE: 402 (a) (2)—the articles were raw agricultural commodities and portions thereof contained, when shipped, a pesticide chemical, namely, a fluorine compound, which is unsafe within the meaning of 408 since no tolerance or exemption from the requirement of a tolerance for such pesticide chemical on beans and black-eyed peas as a result of postharvest treatment has been prescribed by regulations; 402 (a) (3)—a portion of the beans contained rodent urine when shipped; and 402 (a) (4)—a portion of the beans had been held under insanitary conditions.

PLEA: Nolo contendere.

DISPOSITION: 11-7-57. Each defendant fined \$100.

24326. Great Northern beans, pinto beans, lima beans, and kidney beans. (F. D. C. No. 40563. S. Nos. 82-968/71 M.)

QUANTITY: 3 100-lb. bags of Great Northern beans, 3 100-lb. bags of pinto beans, 1 100-lb. bag of lima beans, and 2 100-lb. bags of red kidney beans at Cincinnati, Ohio.

SHIPPED: Between 11-5-56 and 3-18-57, from Morrill, Nebr., Sterling, Colo., Oxnard, Calif., and Oakfield, N. Y.

LIBELED: 8-13-57, S. Dist. Ohio.

CHARGE: 402 (a) (3)—the articles, other than the lima beans, contained insects and the lima beans contained insect excreta and insect-damaged beans while held for sale.

DISPOSITION: 9-25-57. Default—consumption by animals.

*See also Nos. 24270, 24278.

24327. Great Northern beans, lima beans, pinto beans and kidney beans. (F. D. C. No. 40691. S. Nos. 44-363/4 M, 44-367/8 M, 44-612/2 M.)

QUANTITY: 21 bales, 12 2-lb. bags each, 10 25-lb. bags and 50 ctns., 24 1-lb. bags each, of Great Northern beans, 30 bales, 24 1-lb. bags each, of lima beans, 9 25-lb. bags of pinto beans and 4 ctns., 24 1-lb. bags each, of kidney beans at Hope, Ark.

SHIPPED: Between 3-25-57 and 8-20-57, from Dallas, Tex.

LIBELED: 10-9-57, W. Dist. Ark.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-23-57. Default—consumption by animals.

24328. Dried pigeon peas. (F. D. C. No. 40579. S. No. 69-123 M.)

QUANTITY: 300 100-lb. bags at New York, N. Y.

SHIPPED: 5-29-57, from the Dominican Republic.

LIBELED: 9-5-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-26-57. Consent—claimed by R. M. Wilson Co., New York, N. Y. Segregated; 1,075 lbs. destroyed.

24329. Green split peas. (F. D. C. No. 40688. S. No. 76-508 M.)

QUANTITY: 14 25-lb. bags at Greenwich, Conn.

SHIPPED: 8-28-57, from New York, N. Y., by R. S. Porter & Co.

LABEL IN PART: "McDonnell * * * Green Split Peas."

LIBELED: On or about 10-17-57, Dist. Conn.

CHARGE: 402 (a) (3)—contained insects when shipped.

DISPOSITION: 11-21-57. Default—destruction.

24330. Dried split peas and canned tomatoes. (F. D. C. No. 40690. S. Nos. 83-206/7 M.)

QUANTITY: 19 25-lb. bags of dried split peas and 335 1-lb. 12-oz. cans of tomatoes at Cincinnati, Ohio.

SHIPPED: In the spring of 1956, and on or about April, 1957, from Straughn, Ind., and Cold Spring, Ky.

LIBELED: 10-10-57, S. Dist. Ohio.

CHARGE: 402 (a) (3)—the peas contained insects and the tomatoes contained a decomposed substance while held for sale.

DISPOSITION: 11-25-57. Default—destruction.

24331. Canned lima beans and canned butter beans. (F. D. C. No. 40557. S. Nos. 57-414/5 M.)

QUANTITY: 273 cases, 24 cans each, of lima beans and 27 cases, 24 cans each, of butter beans at Rome, Ga.

SHIPPED: During 1954, and on 4-17-57, and 6-17-57, from Milford, Del., by Draper Food Products, Inc.

LABEL IN PART: "Brakeley * * * Contents 1 Lb. Luxury Small Green Lima Beans," and "King Cole * * * Butter Beans * * * Contents 1 Lb."

LIBELED: 8-14-57, N. Dist. Ga.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 10-14-57. Default—destruction.

24332. Dried lima beans. (F. D. C. No. 40550. S. No. 66-428 M.)

QUANTITY: 200 100-lb. bags at New York, N. Y.

SHIPPED: 6-28-57, from San Francisco, Calif., by Sinsheimer & Co.

RESULTS OF INVESTIGATION: Prior to shipment, the article had been stored under insanitary conditions in the John F. Grisez Co. warehouse at Crows Landing, Calif.

LIBELED: 8-23-57, S. Dist. N. Y.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-17-57. Consent—claimed by R. S. Porter & Co., New York, N. Y. Segregated; 4 bags destroyed.

24333. Canned corn. (F. D. C. No. 40727. S. Nos. 66-472/3 M.)

QUANTITY: 94 cases, 6 cans each, at San Francisco, Calif.

SHIPPED: 3-26-57, from Emmett, Idaho, by Gem Canning Co.

LABEL IN PART: (Can) "Earfresh Cream Style * * * Corn * * * Net Weight 6 Lbs. 10 Oz."

LIBELED: 9-10-57, N. Dist. Calif.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 9-24-57. Default—destruction.

24334. Canned corn. (F. D. C. No. 40728. S. No. 51-246 M.)

QUANTITY: 126 ctns., 6 cans each, at Long Beach, Calif.

SHIPPED: 3-4-57, from Emmett, Idaho, by Gem Canning Co.

LABEL IN PART: (Can) "Nugget Brand * * * Cream Style Corn * * * Net Contents 6 Lb. 10 Oz."

LIBELED: 9-13-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 10-16-57. Default—destruction.

24335. Pickled peppers. (F. D. C. No. 40733. S. No. 51-354 M.)

QUANTITY: 97 cases, 6 6-lb. 10-oz. cans each, at Los Angeles, Calif.

SHIPPED: On an unknown date, from outside the United States.

LIBELED: 9-16-57, S. Dist. Calif.

CHARGE: 402 (a) (3)—contained decomposed peppers while held for sale; and 403 (f)—the mandatory labeling information required to appear on the label was not placed thereon so as to render it likely to be read by the ordinary individual under customary conditions of purchase and use, since such information was in Spanish and not in the English language.

DISPOSITION: 10-11-57. Default—destruction.

TOMATOES AND TOMATO PRODUCTS*

24336. Canned tomatoes. (F. D. C. No. 40404. S. No. 78-433 M.)

QUANTITY: 113 cases, 24 cans each, at Fort Smith, Ark.

SHIPPED: 6-17-57 and 7-10-57, from Muskogee, Okla., by the Griffin Grocery Co.

*See also No. 24330.

LABEL IN PART: (Can) "Raider Contents 1 Lb. Tomatoes" and "Adair Brand Hand Packed Contents 1 Lb. Tomatoes Packed by Wauhilla Canning Co. Adair County Stilwell, Okla."

LIBELED: 8-5-57, W. Dist. Ark.; amended libel on 8-8-57.

CHARGE: 402 (a) (3)—contained fly eggs, maggots, and decomposed tomato material when shipped.

DISPOSITION: 6-4-58. Default—destruction.

24337. Canned tomatoes. (F. D. C. No. 40764. S. Nos. 73-909 M, 74-550 M.)

QUANTITY: 30 cases, 6 cans each, at Lewiston, Idaho.

SHIPPED: 4-18-57, from Wapato, Wash., by Wapato Evaporating Co.

LABEL IN PART: (Can) "X-tra-Good * * * Tomatoes * * * Contents 6 lb. 4 oz."

LIBELED: 10-1-57, Dist. Idaho.

CHARGE: 402 (a) (3)—contained a decomposed substance when shipped.

DISPOSITION: 11-4-57. Default—destruction.

24338. Tomato puree. (F. D. C. No. 39709. S. Nos. 24-364 M, 62-783 M.)

QUANTITY: 185 cases, 24 1-lb. 12-oz. cans each, at Brooklyn, N. Y.

SHIPPED: 9-20-56, from Buena Park, Calif., by Uddo & Taormina Co.

LABEL IN PART: (Can) "Progresso Fancy Tomato Puree * * * No Salt Added * * * Packed by Uddo & Taormina Company, Buena Park, California."

RESULTS OF INVESTIGATION: Examination showed that the article contained approximately 125 milligrams of sodium per 100 grams.

LIBELED: 12-4-56, E. Dist. N. Y.

CHARGE: 403 (j)—the article purported to be and was represented as a food for special dietary use by reason of its use as a means of regulating the intake of sodium, and its label failed to bear, as required by regulations, a statement of the number of milligrams of sodium per 100 grams of the food and a statement of the number of milligrams of sodium in an average serving of the food.

DISPOSITION: 1-10-58. Consent—claimed by Uddo & Taormina Co., Brooklyn N. Y., and relabeled.

NUTS AND NUT PRODUCTS

24339. Shelled peanuts. (F. D. C. No. 40709. S. Nos. 42-083/4 M.)

QUANTITY: 365 100-lb. bags at Blasdel, N. Y.

SHIPPED: 6-10-57 and 7-5-57, from Suffolk, Va.

LIBELED: 8-19-57, W. Dist. N. Y.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 9-3-57. Consent—claimed by Old Dutch Foods, Inc., Blasdel, N. Y. Segregated; 3 bags disposed of for use as animal feed.

24340. Shelled peanuts. (F. D. C. No. 40699. S. No. 78-923 M.)

QUANTITY: 265 30-lb. ctns. at Newark, N. J.

SHIPPED: 5-9-57, from Louisville, Ky.

LIBELED: 10-14-57, Dist. N. J.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 11-25-57. Default—destruction.

24341. Cashew nuts. (F. D. C. No. 40742. S. No. 79-857 M.)

QUANTITY: 234 cases, each containing 2 25-lb. tins, at St. Paul, Minn.

SHIPPED: 5-31-57, from New York, N. Y.

LIBELED: 9-18-57, Dist. Minn.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-8-57. Consent—claimed by Fisher Nut Co., St. Paul, Minn. Segregated; 2,000 lbs. destroyed.

24342. Peanut butter. (F. D. C. No. 40729. S. Nos. 58-190/1 M.)

QUANTITY: 7 cases, 12 2-lb. jars each, and 9 cases, 12 24-oz. jars each, at Pittsburg, Kans.

SHIPPED: 6-27-57 and 8-5-57, from Oklahoma City, Okla., by Bailey Mfg. Co., Inc.

LABEL IN PART: (Jar) "Bailey's Old King Cole Brand Peanut Butter."

LIBELED: 9-16-57, Dist. Kans.

CHARGE: 402 (a) (3)—contained rodent excreta pellet fragments, rodent hairs, and insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-25-57. Default—destruction.

24343. Peanut butter. (F. D. C. No. 40725. S. No. 67-942 M.)

QUANTITY: 8 cases, 12 12-oz. jars each, at Kansas City, Kans.

SHIPPED: 7-1-57, from Kansas City, Mo., by Holsum Products.

LABEL IN PART: (Jar) "Shurfine * * * Peanut Butter."

LIBELED: 9-9-57, Dist. Kans.

CHARGE: 402 (a) (3)—contained insect fragments; and 402 (a) (4)—prepared under insanitary conditions.

DISPOSITION: 10-18-57. Default—destruction.

SPICES, FLAVORS, AND SEASONING MATERIALS

24344. Cultured mushroom salt. (F. D. C. No. 38132. S. Nos. 10-067 M, 10-565 M.)

INDICTMENT RETURNED: 9-28-55, W. Dist. Wash., against Cultured Mushroom Industries, Inc., Seattle, Wash., and Arthur Thomas Lelles, president of the corporation.

SHIPPED: 1-31-55 and 2-10-55, from Washington to Wisconsin and Iowa.

LABEL IN PART: (Ctn.) "Cultured Mushroom Salt Made from Cultured Dried Mushrooms Seasoned with Salt Net Wt. $\frac{3}{4}$ Oz. Cultured Mushroom Industries, Inc., Seattle, U. S. A."

CHARGE: 402 (a) (3)—contained insect larvae and insect fragments when shipped.

PLEA: Not guilty.

DISPOSITION: On 10-31-55, defendants filed a motion to dismiss and a motion for a bill of particulars; both motions were denied on 11-14-55.

The case came on for trial before a jury on 2-23-56. The corporate defendant moved for a judgment of acquittal at the close of the Government's case and at the close of all the evidence. The court reserved ruling, pursuant

to Rule 29 (b) of the Federal Rules of Criminal Procedure, pending the verdict.

On 2-28-56, the jury returned a verdict of guilty as to both defendants. The corporate defendant then moved to set aside the jury's verdict as to such defendant, and on 3-19-56, the court granted the motion. On the same day the court denied defendant Lelles' motion for a new trial and sentenced him to 18 months in jail and a fine of \$2,000.

Defendant thereupon appealed, which appeal was denied by the United States Court of Appeals for the Ninth Circuit with the following opinion on 2-11-57 (241 F. 2d 21) :

BONE, *Circuit Judge*. "Appellant Lelles and Cultured Mushroom Industries, Inc., were charged in a two count indictment with unlawfully causing to be introduced, and delivered for introduction, into interstate commerce at Seattle, Washington, for delivery to persons in Iowa (count 1) and Wisconsin (count 2) a number of cartons containing 'cultured mushroom salt,' said food being adulterated within the meaning of 21 U. S. C. A. § 342 (a) (3), 'in that it consisted in part of a filthy substance by reason of the presence in said food of insect larvae and insect fragments,' all in violation of 21 U. S. C. A. §§ 331 and 333. In a trial to a jury both Cultured Mushroom Industries, Inc., and Lelles were found guilty on both counts.¹

"A motion by Cultured Mushroom Industries and Lelles for a new trial was denied, but the trial judge entered an order for judgment of acquittal as to Cultured Mushroom Industries. A motion to dismiss the indictment and to direct the jury to return a verdict of not guilty was made during the trial and before submission of the case to the jury, and was taken under advisement by the trial judge. Lelles was sentenced to 18 months imprisonment on each count, to be served concurrently, and was fined \$1000 on each count. From this judgment Lelles brings this appeal.

"We first consider appellant's contention that the lower court erred in submitting to the jury the case as to both the corporation and individual. It is claimed that this was a misjoinder of parties defendant.² During the trial, evidence showed that the shipments here involved were made by Washington Mushroom Industries, Inc. (not a party to the proceeding), and that payment for the mushroom salt was also made to Washington Mushroom Industries, Inc.³ At the close of all the evidence, both defendants moved for a directed verdict of not guilty⁴ and for a dismissal of the indictment. The trial judge denied the motion as to appellant, but reserved ruling as to the corporation defendant.⁵ Following return by the jury of a verdict of guilty as to both defendants, the trial judge entered an order acquitting the corporation.

¹ The indictment also charged a previous conviction. Counsel for appellant and for Government stipulated "* * * that on August 7, 1950, Cultured Mushroom Industries, Inc., and Arthur Thomas Lelles, defendants herein, were convicted upon a plea of Guilty in this Court of Violation of the Federal Food, Drug and Cosmetic Act in Criminal Cause No. 47976, and that said conviction had become final before the violations alleged in Counts I and II of the Indictment herein were committed." 21 U. S. C. A. § 333 provides for more severe penalties if the person has previously been convicted.

This Court also affirmed a conviction of Lelles for using the mails to defraud. Lelles v. United States, 1941, 9 Cir., 120 F. 2d 447.

² Federal Rules of Criminal Procedure, Rule 8 (b) provides for joinder of two or more defendants. Rule 14 provides for relief from prejudicial joinder. No relief was sought before or during the trial, nor in the motion for a new trial. It appears to have been first raised in statements of points to be relied upon on appeal. We believe this amounts to a waiver of objection. Rule 12 (b) (2) Cf. Smith v. United States, 1950, D. C., 180 F. 2d 775.

³ Testimony shows that appellant owns all the shares but two "qualifying" shares in both Washington Mushroom Industries, Inc., and in Cultured Mushroom Industries, Inc. The business address (sic) and place of doing business of each is the same. Appellant is president of each corporation.

⁴ Federal Rules of Criminal Procedure, Rule 29 (a), "Motions for directed verdict are abolished and motions for judgment of acquittal shall be used in their place." In considering appellant's arguments we have treated his motion for a directed verdict as if it were a motion for judgment of acquittal.

⁵ Federal Rules of Criminal Procedure, Rule 29 (b) reads, "If a motion for judgment of acquittal is made at the close of all the evidence, the court may reserve decision on the motion, submit the case to the jury and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict, * * *."

"It is appellant's argument that '* * * if the corporation of which this individual is President did not make the shipment, and the Court so found by dismissing the action, then its President is not guilty.' It seems to be appellant's position that he cannot personally be liable as he did not ship the adulterated food in interstate commerce; that he can be liable only as an officer of the corporation that did ship the food, and since the corporation charged in the indictment was granted its motion for acquittal, the appellant, as president, cannot be guilty. Appellant then argues the portion of the indictment which refers to himself (Lelles) is merely descriptive of his official position with Cultured Mushroom Industries. We disagree with this argument.

"We believe the import of the statute, 21 U. S. C. A. § 331, and of the case of *United States v. Dotterweich*, 1943, 320 U. S. 277, is that a person who has responsibility in the business activities of a corporation may be personally guilty. The statute, 21 U. S. C. A. § 331, reads 'The following acts and the causing thereof are hereby prohibited * * *.' (Emphasis supplied.) It would seem from reading this statute that if a person causes the unlawful introduction of adulterated food into interstate commerce, such person is guilty.⁶ In *United States v. Dotterweich*, supra, at p. 284, the Court stated:

* * * To speak with technical accuracy, under § 301 [of the Act, 21 U. S. C. A. § 331] a corporation may commit an offense and all persons who aid and abet its commission are equally guilty. Whether an accused shares responsibility in the business process resulting in unlawful distribution depends on the evidence produced at the trial and its submission—assuming the evidence warrants it—to the jury under appropriate guidance. *The offense is committed, unless the enterprise which they are serving enjoys the immunity of a guaranty, by all who do have such a responsible share in the furtherance of the transaction which the statute outlaws*, namely, to put into the stream of interstate commerce adulterated or misbranded drugs. * * * (Emphasis supplied.)

"We have carefully examined the indictment and believe that it charges appellant personally to have caused unlawfully to be introduced and delivered for introduction into interstate commerce the adulterated food. We quote the relevant portions of the indictment in the margin.⁷ We disagree with appellant that the entire portion '* * * and Arthur Thomas Lelles, an individual, at the time hereinafter mentioned president of said corporation * * *' is descriptive only. We believe when it reads, '* * * Lelles, an individual * * *' that it charges Lelles personally as 'an individual' to have done an unlawful act.

"Appellant's contention that he may be guilty only as the officer of a guilty corporation is answered by the opinion in *United States v. Dotterweich*, supra. In that case the indictment charged the corporation and its president and general manager, Dotterweich, for violations of 21 U. S. C. A. § 331 (a). The jury did not find the corporation guilty but did find Dotterweich guilty. At p. 279 the Court stated:

* * * Equally baseless is the claim of Dotterweich that, having failed to find the corporation guilty, the jury could not find him guilty. Whether the jury's verdict was the result of carelessness or compromise or a belief

⁶ 21 U. S. C. A. § 333 (a) provides, "Any person who violates any of the provisions of section 331 shall be guilty of a misdemeanor * * *." 21 U. S. C. A. § 321 (e) provides, "The term 'person' includes individual, partnership, corporation, and association." 21 U. S. C. A. § 331 provides, "The following acts and the causing thereof are hereby prohibited: (a) The introduction or delivery for introduction into interstate commerce of any food, drug, device, or cosmetic that is adulterated or misbranded." 21 U. S. C. A. § 342 provides, "A food shall be deemed to be adulterated—(a) (3) if it consists in whole or in part of any filthy, putrid, or decomposed substance, or if it is otherwise unfit for food; * * *."

⁷ "The Grand Jury charges: * * * That Cultured Mushroom Industries, Inc., a corporation organized and existing under the laws of the State of Washington and trading and doing business at Seattle, State of Washington, and Arthur Thomas Lelles, an individual, at the time hereinafter mentioned president of said corporation, did, within the Northern Division of the Western District of Washington, on or about February 10, 1955, in violation of the Federal Food, Drug, and Cosmetic Act, unlawfully cause to be introduced and delivered for introduction into interstate commerce at Seattle, State of Washington, for delivery * * *."

that the responsible individual should suffer the penalty instead of merely increasing, as it were, the cost of running the business of the corporation, is immaterial * * *.

"We believe there was no prejudicial error in submitting the case to the jury as against both corporation defendant and individual defendant. The evidence sufficiently shows that appellant Lelles was a responsible official. (See footnote 3, *supra*.) Cf. *Golden Grain Macaroni Co., Inc. v. United States*, 1953, 9 Cir., 209 F. 2d 166, 168.

"Appellant next argues that the motion to dismiss the indictment should have been granted because of variance between an allegation in the indictment and the proof. On this point he argues that the indictment, count 1, charges appellant with causing a certain unlawful interstate commerce shipment (to Iowa) to be made * * * on or about February 10, 1955. According to the records of the appellant, this shipment was made on January 22, 1955, or 19 days before the alleged date. As a general rule, a difference between the date charged in the indictment and the date shown by the evidence at trial is not fatal to the prosecution. In *Ledbetter v. United States*, 1898, 170 U. S. 606, 612, the Court stated:

Neither is it necessary to prove that the offence was committed upon the day alleged, unless a particular day be made material by the statute creating the offence. Ordinarily, proof of any day before the finding of the indictment, and within the statute of limitations, will be sufficient.

"And this Court stated in *Berg v. United States*, 1949, 176 F. 2d 122, 126, cert. den., 1949, 338 U. S. 876:

Even if it be true that the date alleged for the commission of a crime is not a true one or even a possible one, this does not invalidate the indictment. The change of a date in an indictment is not a material allegation which must be proved as laid.

"Appellant alleges error by the lower court in permitting appellee to recall certain witnesses for rebuttal and to call a witness for the first time during appellee's case in rebuttal. As part of his defense appellant sought to prove that the mushroom salt in these shipments was made several years prior to the shipments here involved and had been approved by food inspectors in 1950, and that no mushroom salt had been made since that time. In its opening case, appellee had anticipated this defense and sought to show that mushroom salt had been made about the time of the shipments involved in this action. At this time, the trial judge asked, 'Are you seeking, or anticipating the Defendant's defense here?' Following an affirmative reply by appellee's counsel, the trial judge stated, 'It seems to me that that is rebuttal.' Appellee thereafter ceased to offer such evidence until after appellant completed his case.

"It is appellant's contention that the testimony offered by appellee in rebuttal was improper rebuttal evidence and that it should have been introduced during appellee's case in chief. Questions of rebuttal testimony are generally subject to the sound discretion of the trial court. In *Cornes v. United States*, 1941, 119 F. 2d 127, 130, this Court stated:

Appellant contends that certain evidence which was offered in rebuttal, and was admitted, should have been excluded as not being proper rebuttal. Assuming, without deciding, that it was not proper rebuttal, it was nevertheless within the discretion of the Court to admit the evidence; and that discretion, in the absence of abuse, is not reviewable. *Goldsby v. United States*, 160 U. S. 70 [1895] * * *.

See also *Marron v. United States*, 1925, 9 Cir., 8 F. 2d 251, 257; *Samish v. United States*, 1955, 9 Cir., 223 F. 2d 358, 265, cert. den., 1955, 350 U. S. 848, rehearing den., 350 U. S. 897; *Williams v. United States*, 1945, 4 Cir., 151 F. 2d 736; *Labiosa v. Government of Canal Zone*, 1952, 5 Cir., 198 F. 2d 282; *United States v. Hiss*, 1950, 2 Cir., 185 F. 2d 822, cert. den., 1951, 340 U. S. 948. We believe there was no abuse of discretion.

“On rebuttal a witness for appellee testified that in his opinion, based on samples analyzed in 1950 from mushroom salt identified as lots 102 and 103, and an analysis of samples from the 1955 shipments here in issue, the mushroom salt analyzed in 1955 could not be from the same stock as the mushroom salt analyzed in 1950. He expressed this opinion because the two samples varied so in contents.⁸ Appellant argues that admission of this testimony was error as it was opinion testimony relating to an ultimate fact properly to be determined by the jury. We disagree. The testimony of the witness did not relate to the ultimate issue involved, which was whether the food introduced in interstate commerce in 1955 was adulterated, but related to whether the 1955 sample came from the same stock as the 1950 sample. We also disagree for the reason that the witness was an expert with specialized skill in chemistry. He examined mushroom salt samples in 1950 and other samples in 1955. The competency and qualifications of a witness offered as an expert, and the extent to which his opinion may be required, are matters largely within the judicial discretion of the trial judge. *Reuter v. Eastern Air Lines, Inc.*, 1955, 5 Cir., 226 F. 2d 443, 445; *Hatch v. United States*, 1929, 8 Cir., 34 F. 2d 436, 437, cert. den., 1930, 281 U. S. 731; *United States v. Kolodny*, 1945, 2 Cir., 149 F. 2d 210; *Landfield et al. v. United States*, 1925, 9 Cir., 9 F. 2d 315, 316. While the witness did state facts about the contents of the 1950 and 1955 samples, we do not believe the trial court abused its discretion in permitting the witness to express his opinion based on many years of scientific analysis of food.

“Appellant also contends that the trial court erred in refusing to sustain appellant’s challenge to the legal sufficiency of the evidence and in refusing to direct a verdict of not guilty. We have examined the entire record on appeal and are convinced that there was sufficient evidence to carry the case to the jury and that the evidence was substantial and supports the verdict.

“Judgment Affirmed.”

A petition for rehearing was filed by the defendant in the court of appeals on 3-14-57, and denied by that court on 3-19-57.

Defendant then filed a petition for a writ of certiorari, which petition was denied by the United States Supreme Court on 5-27-57.

24345. Mustard bran. (F. D. C. No. 40722. S. No. 58-239 M.)

QUANTITY: 15 100-lb. bags at Oklahoma City, Okla., in possession of Bailey Mfg. Co., Inc.

SHIPPED: 11-20-56, from Houston, Tex.

LIBELED: 8-30-57, W. Dist. Okla.

CHARGE: 402 (a) (3)—contained rodent urine; and 402 (a) (4)—held under insanitary conditions.

DISPOSITION: 10-3-57. Default—destruction.

24346. Ginger root. (F. D. C. No. 40652. S. No. 69-940 M.)

QUANTITY: 550 40-lb. bags at Philadelphia, Pa.

SHIPPED: 10-11-56 and 10-15-56, from Bound Brook, N. J.

LIBELED: 9-19-57, E. Dist. Pa.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 10-17-57. Default—destruction.

⁸ The 1950 and 1955 samples showed the following :

1950 Samples	1955 Samples
(1) No appreciable filth	(1) Substantial filth
(2) Appreciable amount of cornstarch	(2) A few grains of starch—not enough to permit identification as cornstarch
(3) Net weight per can—.90 oz.	(3) Net weight per can—from 1.63 oz. to 1.82 oz.
(4) Headspace per can—2¾ in. to 3½ in.	(4) Headspace per can—1¾ in. to 1⅝ in.

The appreciable filth included whole larva and large beetle fragments, smaller fragments, and rat or mouse hairs.

24347. Paprika. (F. D. C. No. 40730. S. No. 53-623 M.)

QUANTITY: 49 110-lb. bags at Houston, Tex.

SHIPPED: 5-13-57, from Espinardo, Spain.

LIBELED: 9-11-57, S. Dist. Tex.

CHARGE: 402 (a) (3)—contained insects while held for sale.

DISPOSITION: 12-23-57. Consent—claimed by Geo. H. Dentler & Sons, Houston, Tex., and destroyed.

24348. Vinegar and cider. (Inj. No. 327.)

COMPLAINT FOR INJUNCTION FILED: 1-4-58, W. Dist. Va., against Shenandoah Valley Apple Cider & Vinegar Corp., Winchester, Va.

CHARGE: The complaint alleged that the defendant had been and was, at the time of the filing of the complaint, operating a plant at Winchester, Va., for the preparation, storage, and distribution of vinegar and cider; that it had been and was, at the time of filing the complaint, storing and holding such foods in storage tanks under insanitary conditions resulting from the presence of insect filth on the inside walls of such tanks, and in the vinegar and cider contained therein; that the defendant had on hand quantities of vinegar and cider on its premises under the aforesaid conditions; and that the defendant was introducing and causing to be introduced into interstate commerce, vinegar and cider adulterated as follows: 402 (a) (3)—the articles were contaminated with insects, insect fragments, insect excrement, insect larvae, insect eggs, maggots, and vinegar eels, and the vinegar was also manufactured from cider contaminated with insect filth; and 402 (a) (4)—the articles were prepared and held under insanitary conditions.

DISPOSITION: On 1-4-58, the court issued a temporary restraining order. Thereafter, on 2-4-58, the defendant having consented to the entry of a decree, an injunction was entered enjoining the defendant from introducing or delivering for introduction into interstate commerce, certain stocks of vinegar and cider on hand in the defendant's plant on 1-24-58, until brought into compliance with the law under the supervision of the Food and Drug Administration, as follows: the vinegar and cider in the tanks was to be layered off, except for two feet on the bottom and one foot on the top; the portions so layered off from the middle of the tanks were to be filtered into completely sanitized and insect-proofed tanks; the top one foot and bottom two feet of each tank of the vinegar and cider were to be pumped into holding tanks and the accumulation distilled, destroyed, or otherwise disposed of under the supervision of the Food and Drug Administration; all fermentation and holding tanks were to be covered by insect proof covers; and the layering off, tank cleaning, and tank covering operations were to be completed by 5-1-58.

MISCELLANEOUS FOODS

24349. Coal-tar color mixtures and bronze powder. (F. D. C. No. 39838. S. Nos. 24-468/71 M, 24-475 M.)

INDICTMENT RETURNED: 9-4-57, S. Dist. Calif., against Westco Products, a partnership, Los Angeles, Calif.

ALLEGED VIOLATION: The indictment charged that the defendant falsely represented and, without proper authority, used on the labels of products designated as "Decorator Paste Brown," "Paste Color Violet," and "Paste Color

Brilliant Rose," marks and identification devices authorized and required by the coal-tar color regulations. Such marks and identification devices, namely, "G 6908," "G 5689," and "G 4265," had been assigned by the Food and Drug Administration to a firm other than the defendant for use on certain batches of certified coal-tar colors. The above-designated colors were not from the batches of coal-tar colors to which the above marks and identification devices had been assigned, but were uncertified coal-tar color mixtures of different composition.

The indictment charged also that the defendant shipped, between 2-7-56 and 4-9-56, from California to Nevada, the above-named products, a product designated as "Fruit Shade Red Liquid Color," and bronze powder, which products and powder were adulterated as described below.

LABEL IN PART: (Jar) "Decorator Paste 4 oz. Brown Contains: Sugar, Glycerine and Water. Certified Food Color #G 6908 WESTCO" or "4 Oz. Paste Color Violet Contains: Sugar, Glycerine and Water. Certified Food Color Lot #G 5689 WESTCO" or "4 Oz. Paste Color Brilliant Rose Contains: Sugar, Glycerine and Water. Certified Food Color Lot #G 4265 WESTCO" or "Samson Bronze Powder Finest Grade Pale Gold Brilliant Pound Mix sufficient powder with bronzing liquid (either lacquer or varnish base) to a creamy consistency. Thin out with additional vehicle to obtain desired viscosity. Flow on evenly with soft camel hair brush. Porous surfaces should be sealed before application of bronze," or "Westco Brand Serving Bakers and Confectioners Fruit Shade Red Liquid Color A standardized liquid color compounded from U. S. Certified Color, Propylene Glycol and Water. Net When Packed—1 Quart Westco Products."

CHARGE: *Bronze Powder:* 402 (a) (1)—contained, when shipped, poisonous and deleterious substances, copper and zinc, which may render the article injurious to health.

Other products: 402 (c)—the articles, when shipped, contained a coal-tar color mixture other than one from a batch certified in accordance with the requirements of the law.

PLEA: Nolo contendere.

DISPOSITION: 11-4-57. \$2,150 fine.

24350. Annatto seeds (2 seizure actions). (F. D. C. Nos. 40765, 40766. S. Nos. 49-043/5 M.)

QUANTITY: 157 100-lb. bags and 96 175-lb. bags at Kalamazoo, Mich., in possession of Farmers' Chemical Co., Inc.

SHIPPED: 6-14-57 and 6-28-57, from Brooklyn and New York, N. Y.

LIBELED: 10-3-57, W. Dist. Mich.

CHARGE: 402 (a) (3)—all lots contained insects while held for sale; and 402 (a) (4)—102 bags of the 157-bag lot were held under insanitary conditions.

DISPOSITION: 10-10-57. Consent—claimed by Farmers' Chemical Co., Inc. Reconditioned; 6,365 lbs. were destroyed.

INDEX TO NOTICES OF JUDGMENT F. N. J. NOS. 24251 TO 24350

PRODUCTS

	N. J. No.		N. J. No.
Alfalfa meal	24310	Cranberry beans	24270
Annatto seeds	24350	Croutons, cheese and garlic	24257
Apple juice	¹ 24348	garlic	24257
Bakery products	24254-24257	toasted	24257
Baking mixes	24294	Dairy products	24300-24305
Banana puree, canned	24322	Dough base, sweet	24293
Barley	24276	Egg(s), frozen	24306-24308
Beans	24278	noodles	24273, 24274
butter, canned	24331	products, frozen	24308
cranberry	24270	Enriched flour	¹ 24269, 24271
Great Northern, dried	24326, 24327	Feeds and grains	24309-24311
kidney, dried	24326, 24327	Fish and shellfish	24312-24321
lima, canned	24331	Flour	³ ¹ 24258-24271
dried	24326, 24327, 24332	Fruits and vegetables	24322-24338, 24270, 24278
pink, dried	24325	fruit, canned	24322
pinto, dried	24326	dried	24323
Beverages and beverage mate- rials	² 24251-24253, 24348	fresh	24324
Blueberries, fresh	24324	tomatoes and tomato products	24330, 24336-24338
Bone flour, wettable, with vita- min D ₂	24311	vegetables and vegetable prod- ucts	24270, 24278, 24325-24335
Bran, mustard	24345	Garlic croutons	24257
raisin	24267	Ginger root	24346
Bread	24254, 24255	Grapette pop	² 24251
Bronze powder	24349	Great Northern beans, dried	24326, 24327
Butter	24300-24302	Haddock fillets, frozen	24312, 24313
beans, canned	24331	Inconnus (fish)	24314
peanut	24342, 24343	Kidney beans, dried	24326, 24327
Candy. <i>See</i> Confectionery.		Lasagna dumplets	24267
Cashew nuts	24341	Lima beans, canned	24331
Caviar	24321	dried	24326, 24327, 24332
Cereals and cereal products	³ 24254- 24294	Macaroni and noodle products	24267, 24272-24275
Cheese	24303-24305	Mixes, baking	24294
Cheese and garlic croutons	24257	Mushroom salt, cultured	⁴ 24344
Chocolate-flavored sirup	24297, 24298	Mustard bran	24345
Cider, apple. <i>See</i> Apple juice.		Muffin mix, corn	24294
Coal-tar color mixtures	24349	Noodles. <i>See</i> Macaroni and noo- dle products.	
Cocoa powder	24295, 24296	Oats	24277, 24280
Coffee	24253	rolled	24267
Confectionery	² 24299	Oysters	24319, 24320
Corn, canned	24333, 24334		
Cornmeal	24258		
Crabmeat, processed	24318		

¹ (24269, 24348) Injunction issued.² (24251, 24299) Prosecution contested.³ (24265) Action for criminal contempt.⁴ (24344) Prosecution contested. Contains opinion of the court.

	N. J. No.		N. J. No.
Paprika	24347	Sardines, canned	24316
Peanut(s), shelled	24339, 24340	Spaghetti. <i>See</i> Macaroni and	
butter	24342, 24343	noodle products.	
Peas, black-eyed	24325	Spices, flavors, and seasoning	
pigeon, dried	24328	materials	24344-24348
split, dried	24330	Shellfish. <i>See</i> Fish and shellfish.	
green	24329	Shrimp, canned	24317
Peppers, pickled	24335	Sirup, chocolate-flavored	24297, 24298
Piecrust mix	24294	Tomato(es), canned	24330,
Pinto beans, dried	24326		24336, 24337
Popcorn, unpopped	24291, 24292	puree	24338
Poultry feed	24309	Vinegar	¹ 24348
Raisin(s), seedless	24323	Wheat	24281-24290
bran	24267	Whisky	24252
Rice	24270, 24278, 24279	Whitefish, fresh	24314, 24315
Ryola Crisp Rye	24256		

SHIPPERS, MANUFACTURERS, AND DISTRIBUTORS

	N. J. No.		N. J. No.
Appel, Sam :		Cooperstown Coop. Association :	
bread	24254	barley	24276
Bailey Mfg. Co., Inc. :		Cox, C. M., Co. :	
mustard bran	24345	poultry feed	24309
peanut butter	24342	Cultured Mushroom Industries,	
Beaver Meadow Creamery, Inc. :		Inc. :	
frozen eggs	24306	cultured mushroom salt	⁴ 24344
Better Taste Popcorn Co. :		Cummings & Schooler Co. :	-
unpopped popcorn	24291	alfalfa meal	24310
Boats. <i>See</i> Bonnie Breaker, Nau-		D'Amico, G., Macaroni Co. :	
tilus, and Patty Jean.		egg noodles	24274
Bonnie Breaker, Boat :		De Wein Grain Co. :	
frozen haddock fillets	24313	oats	24280
Brooklyn Eastern Dist. Termi-		Draper Food Products, Inc. :	
nal :		canned lima beans and canned	
flour and cornmeal	24258	butter beans	24331
flour	24259	Eagle Wholesale Grocery Co. :	
Canadian Fish Producers, Ltd. :		flour, rice, and cranberry beans	24270
fresh whitefish	24315	rice and beans	24278
Carson, L. R., Inc. :		Farmers' Chemical Co., Inc. :	
oysters	24319	annatto seeds	24350
Carter Fisheries :		Farmers Coop. Elevator Co. :	
whitefish and inconnus fish	24314	wheat	24289
City Elevator :		Farmers Equity Coop. Creamery	
flour	24261	Association :	
Collins, P. R. :		butter	24300
beans and black-eyed peas	24325	Farmers Equity Exchange :	
Collins & Story :		wheat	24282
beans and black-eyed peas	24325		

¹ (24269, 24348) Injunction issued.
⁴ (24344) Prosecution contested. Contains opinion of the court.

	N. J. No.		N. J. No.
Farmers Grain Exchange:		Miller, R. E.:	
wheat-----	24286	Grapette pop-----	² 24251
Frostie Grapette Bottling Co.		Mountainside Butter & Egg Co.:	
See Nesbitt Grapette Bot-		frozen eggs-----	24307, 24308
tling Co., Inc.		Nautilus, Boat:	
Fulton Market Cold Storage:		frozen haddock fillets-----	24313
cheese-----	24303	Nesbitt Grapette Bottling Co.,	
Galioto Bros. & Co.:		Inc.:	
elbow spaghetti-----	24275	Grapette pop-----	² 24251
Gem Canning Co.:		Newton, R. A.:	
canned corn-----	24333, 24334	cocoa powder-----	24295
Gerwin Foods Co.:		Occident Elevator Co.:	
cheese and garlic croutons,		wheat-----	24283
toasted croutons, and garlic		Pascagoula Crab Co.:	
croutons-----	24257	processed crabmeat-----	24318
Gloria Cheese Co.:		Patty Jean, Boat:	
cheese-----	24304, 24305	frozen haddock fillets-----	24312
Griffin Grocery Co.:		Peacock, R. J., Canning Co.:	
canned tomatoes-----	24336	canned sardines-----	24316
Hill, C. K.:		Plochman & Harrison:	
candy-----	² 24299	coffee-----	24253
Hill Candy Co., Inc.:		Porter, R. S., & Co.:	
candy-----	² 24299	green split peas-----	24329
Holsum Products:		Quality Egg Co.:	
peanut butter-----	24343	frozen eggs and frozen egg	
Home Style Bakery. See Kar-		products-----	24308
nacewicz, C. W.		Rockham Farmer's Elevator Co.:	
Kaakinen Fish Co.:		wheat-----	24285
canned shrimp-----	24317	Rooney, C. A.:	
Karnacewicz, C. W.:		wheat-----	24284
bread-----	24255	Ryola Co.:	
Keystone Fisheries:		Ryola Crisp Rye-----	24256
whitefish and inconnus fish---	24314	St. Albans Grain Co.:	
Lake County Cookie Co., Inc.:		poultry feed-----	24309
flour-----	³ 24265	Saskatchewan Fish Marketing	
Lelles, A. T.:		Service:	
cultured mushroom salt-----	⁴ 24344	whitefish and inconnus fish---	24314
Leola Equity Exchange:		Shenandoah Valley Apple Cider	
wheat-----	24287, 24288	& Vinegar Corp.:	
Lexington Mill & Elevator Co.:		vinegar and cider-----	¹ 24348
enriched flour-----	¹ 24269, 24271	Sifers Chocolate Syrup Co., Inc.:	
McCarthy Bros.:		chocolate-flavored sirup-	24297, 24298
wheat-----	24290	Sinsheimer & Co.:	
McDowell Farmers Elevator Co.:		dried lima beans-----	24332
oats-----	24277	Stanley County Coop. Marketing	
Massey & Fair, Inc.:		Association:	
rice-----	24279	wheat-----	24281

¹ (24269, 24348) Injunction issued.² (24251, 24299) Prosecution contested.³ (24265) Action for criminal contempt.⁴ (24344) Prosecution contested. Contains opinion of the court.

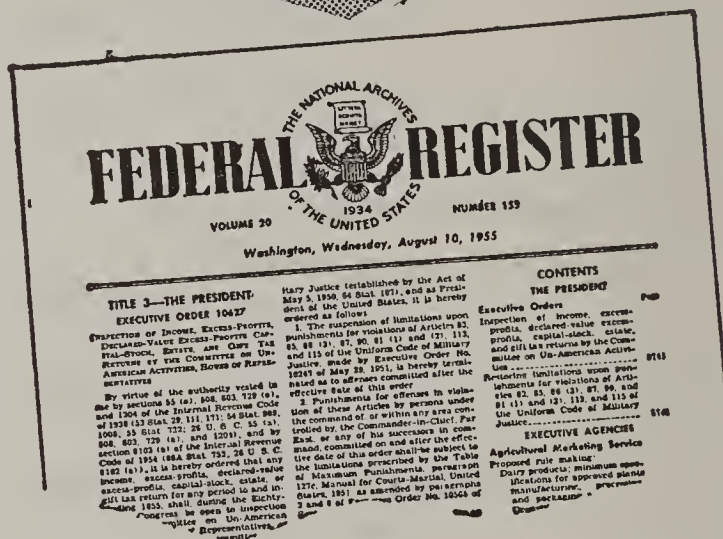
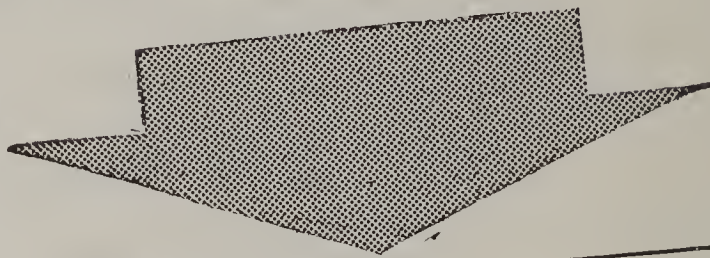
	N. J. No.		N. J. No.
Story, G. T.:		Veterinary Laboratories, Inc.:	
beans and black-eyed peas----	24325	wetttable bone flour with vita-	
Taylor, Charles, & Son:		min D ₂ -----	24311
fresh blueberries-----	24324	Wapato Evaporating Co.:	
Tip Top Creamery Co.:		canned tomatoes-----	24337
butter-----	24302	Wauhillau Canning Co.:	
Todd Co.:		canned tomatoes-----	24336
oysters-----	24320	Westco Products:	
Uddo & Taormina Co.:		coal-tar color mixtures and	
tomato puree-----	24338	bronze powder-----	24349
Valklar Top Notch Bakers, Inc.:			
bread-----	24254		

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